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इस भाग में मिस पृष्ठ संख्या दी जाती है जिससे कि यह प्रलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय की छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 13 दिसम्बर, 2000

का.आ. 2754.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80 प्रतिशत से अधिक हो जाने के फलस्वरूप उन्हें एतद्द्वारा अधिसूचित करती है :—

1. कार्यालय अपर पुलिस उप महानिरीक्षक, ग्रुप केन्द्र, केन्द्रीय रिजर्व पुलिस बल, रंगारेड्डी, (आ.प्र.)
2. कार्यालय कमांडेंट, 113वीं बटालियन, केन्द्रीय रिजर्व पुलिस बल ।

[सं. 12017/1/99-हिन्दी]

राजेन्द्र सिंह, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 13th December, 2000

S.O. 2754.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Ministry of Home Affairs where the percentage of Hindi flnowing staff has gone above 20 per cent:—

1. Office of the Additional DIG Police, Group Centre, CRPF, Rangareddy (Andhra Pradesh),
2. Office of the Commandant, 113 Bn CRPF.

[No. 12017/1/99-Hindi]

RAJENDRA SINGH, Director(OL)

नई दिल्ली, 13 दिसम्बर, 2000

का.अ. 2755.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80 प्रतिशत से अधिक हो जाने के लक्ष्य रूप उन्हें एतद्वारा अधिसूचित करती है :

1. 96वीं बटालियन, सीमा सुरक्षा बल ।
2. 97वीं बटालियन, सीमा सुरक्षा बल ।
3. 152वीं बटालियन, सीमा सुरक्षा बल ।
4. 20वीं बटालियन, सीमा सुरक्षा बल ।
5. 32वीं बटालियन, सीमा सुरक्षा बल ।
6. 111वीं बटालियन, सीमा सुरक्षा बल ।
7. 137वीं बटालियन, सीमा सुरक्षा बल ।
8. सहायक प्रशिक्षण केन्द्र, सीमा सुरक्षा बल, चूड़ाचांदपुर (मणिपुर) ।

[सं. 12017/1/99-हिन्दी]
राजेन्द्र सिंह, निदेशक (राजभाषा)

New Delhi, the 13th December, 2000

S.O. 2755.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Ministry of Home Affairs where the percentage of Hindi knowing staff has gone above 80 per cent :

1. 96 Battalion, Border Security Force.— —
2. 97 Battalion, Border Security Force.
3. 152 Battalion, Border Security Force.
4. 20 Battalion, Border Security Force.
5. 32 Battalion, Border Security Force.
6. 111 Battalion, Border Security Force.
7. 137 Battalion, Border Security Force.
8. Subsidiary Training Centre, Border Security Force, Churachandpur (Manipur).

[No. 12017/1/99-Hindi]
RAJENDRA SINGH, Director(OL)

वित्त मंत्रालय
(राजस्व विभाग)

(केन्द्रीय प्रयोजन कर बोर्ड)

नई दिल्ली, 24 नवम्बर, 2000

(आयकर)

का.आ. 2756.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार, आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम,

1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए संघ श्रेणी के अंतर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संघ अपनी अनुसंधान गतिविधियों के लिए अलग लेखा बही रखेगी,
- (ii) अधिसूचित संघ हरेक वित्त वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिपोर्ट प्रतिवर्ष 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, प्रौद्योगिकी भवन, न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी,
- (iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामित कर निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अलावा अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपनी अनुसंधान गतिविधियों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अंतर्गत छूट प्रदान की गई थी, के संबंध में आय और व्यय खाते की लेखा परीक्षा की एक प्रति प्रतिवर्ष 31 अक्टूबर को अथवा उससे पहले संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडलटन राँ, 5वां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रस्तुत करेगी ।

क्र. सं. अनुमोदित संगठन का नाम अवधि जिसके लिए अधिसूचना प्रभावी है ।

1	2	3
1. कान्वेस्ट जैन मैडिकल रिसर्च सोसाइटी, 8/10, निकादवाडी लेन, कान्हेवाडी, गिरिगांव, मुम्बई-400004 (फा.सं. 203/103/20000-आईटीए-II)	1-4-1999 से 31-3-2001 तक	
2. विजन रिसर्च फाउंडेशन, 18, कालेज रोड, चेन्नई-600006 (फा. सं. 203/104/2000-आईटीए-II)	1-4-2000 से 31-3-2003 तक	
3. स्कीजोफ्रेनिया रिसर्च फाउंडेशन (इंडिया) प्लॉट नं. आर/7-ए नार्थ मेन रोड अन्ना नगर पश्चिम (विस्तार) चेन्नई-600101 (फा. सं. 203/104/2000-आईटीए-II)	1-4-2000 से 31-3-2003 तक	

1	2	3
4.	सर हरकिशनदास नरोत्तमदास मेडिकल रिसर्च सोसाइटी, राजा राम मोहन राय रोड, मुम्बई 400004 (फा. सं. 203/107/2000-आईटीए-II)	1-4-2000 से 31-3-2003 तक
5.	श्री अरविन्द इन्स्टीट्यूट आफ एप्लाइड साइंटिफिक रिसर्च ट्रस्ट, "एकादमी हाउस" नं. 12, हर-वाडी स्ट्रीट, पद्मिनी नगर, पांडोचेरी-605012 (फा. सं. 203/107/2000-आईटीए-II)	1-4-2000 से 31-3-2003 तक
6.	इंडियन मेडिकल साइंटिफिक रिसर्च फाऊंडेशन अजय मैशन, एस ए यू काल्ड स्टोरेज के पीछे, मालविय (गोन्डल) रोड, राजकोट 360002 [फा. सं. 203/41/2000 आईटीए II]	1-4-2000 से 31-3-2003 तक

टिप्पणी :—अधिसूचित संघ को यह सलाह दी जाती है कि वे अनुमोदन के नवीन करण हेतु पहले से ही तीन प्रतियों में अपने श्रेताधिकार में आने वाले आय कर आयुक्त/आय कर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीनीकरण के लिए आवेदन के पत्र की तीन प्रतियां सचिव वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग को भी सीधे भेजी जाएंगी।

[अधिसूचना सं. 11560/फा सं. 203/103/2000 आय कर नि. II]

कमलेश सी वार्षण्य, अवर सचिव

MINISTRY OF FINANCE
(Department of Revenue)
CENTRAL BOARD OF DIRECT TAXES
New Delhi the 24th November, 2000
INCOME TAX

S.O. 2756.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Association" subject to the following conditions :—

- The notified Association shall maintain separate books of accounts for its research activities;
- The notified Association shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, Technology Bhawan, New Mehrauli Road,

New Delhi-110016 for every financial year on or before 31st May of each year;

- The notified Association shall submit, on behalf of the Central Government to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific & Industrial Research and (c) The Commissioner of Income Tax, Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of section 35 of Income Tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	Conwest Jain Medical Research Society, 8/10, Nikadwari Lane, Kandewadi, Girigaon, Mumbai-400004 (F. No. 203/103/2000-ITA-II)	1-4-1999 to 31-3-2001
2.	Vision Research Foundation, 18, College Road, Chennai-600006 (F. No. 203/104/2000-ITA-II)	1-4-2000 to 31-3-2003
3.	Schizophrenia Research Foundation (India), Plot No. R/7A, North Main Road, Anna Nagar West (Extension), Chennai-600101 (F. No. 203/104/2000-ITA-II)	1-4-2000 to 31-3-2003
4.	Sir Harkishandas Nurrotum Das Medical Research Society, Raja Ram Mohan Roy Road, Mumbai-400004 (F. No. 203/107/2000-ITA-II)	1-4-2000 to 31-3-2003
5.	Sri Aurobindo Institute of Applied Scientific Research Trust, "Academy House", No. 12, Harbid Street, Padmini Nagar, Pondicherry-605012 (F. No. 203/107/2000-ITA-II)	1-4-2000 to 31-3-2003
6.	Indian Medical Scientific Research Foundation, Ajay Mansion Opp. SAU Cold Storage, Malviya (Gondal) Road, Rajkot-360002 (F. No. 203/41/2000-ITA-II)	1-4-2000 to 31-3-2003

Notes.—The notified Association is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax, Director of Income Tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 11560/F. No 203/103/2000-ITA-II]

KAMLESH C. VARSHNEY, Under Secy.

नई दिल्ली, 28 नवम्बर, 2000

(आयकर)

का.आ. 2757.—सर्वसाधारण संस्था की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के खंड (iii) के प्रयोजनार्थ अधोलिखित संगठनों को उनके नाम के सामने उल्लिखित अवधि के लिए “संस्था” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संस्था अपनी अनुसंधान गतिविधियों के लिए अलग से लेखा बही रखेगा।
- (ii) अधिसूचित संस्था हरेक वित्त वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिपोर्ट प्रतिवर्ष 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग प्रौद्योगिकी भवन, न्यू महरौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामित कर निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अलावा अपने लेखा परीक्षित वार्षिक लेखे की एक प्रति तथा अपनी अनुसंधान गतिविधियों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय और व्यय खाते की लेखा परीक्षा की एक प्रति प्रतिवर्ष 31 अक्टूबर को अथवा उससे पहले संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) (ख) मिडलटन राँ, 5वां तल कलकत्ता 700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग (ग) आयकर

आयुक्त/आयकर निदेशक (छूट) को प्रस्तुत करेगा।

क्र.सं. अनुमोदित संस्था का नाम अवधि जिसके लिए अधिसूचना प्रभावी है

1. टी वी एस एजुकेशनल सोसायटी, 1-4-2000 से जयलक्ष्मी एस्टेट, सं. 8 हेडोज रोड, 31-3-2002 चैन्नई-600006 (फा. सं. 203/103/2000-आयकर नि. II)
2. वेद विज्ञान महाविद्यापीठ, 1-4-2000 से सं. 19, 39 वां “ए” फ़्लोर 11 वां 31-3-2002 मैन रोड, 4वां “टी” ब्लॉक, जय नगर, बंगलूर-560041 (फा. सं. 203/104/2000-आयकर नि. II)
3. इंस्टीट्यूट ऑफ मार्केटिंग एण्ड 1-4-1999 से मैनेजमेंट, 62-एफ सुजान सिंह 31-3-2001 पार्क नई दिल्ली-110003 (फा. सं. 203/107/2000-आयकर नि. II)

टिप्पणी : अधिसूचित संस्था को यह सलाह दी जाती है कि वे अनुमोदन के विस्तार हेतु तीन प्रतियों में और पहले ही क्षेत्राधिकार में आने वाले आयकर आयुक्त/आयकर महानिदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के विस्तार के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग को भी सीधे भेजी जाएंगी।

[अधिसूचना सं. 11565/फा.सं. 203/103/2000, और अन्य आईटीए-II]

कमलेश सी. वाष्णैय, अवसर सचिव

New Delhi, the 28th November, 2000

INCOME TAX

S.O. 2757.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (iii) of Sub-section (1) of Section 35 of the Income Tax Rules, 1962, under the category of the Income tax Rules, 1962, under the category “Institution” subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, Technology

Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year.

- (iii) The notified Institution shall submit on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071 (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	TVS Educational Society, Jayalakshmi Estate, No. 8 Haddows Road, Chennai-600006 (F. No.203/103/2000-ITA-II)	1-4-2000 to 31-3-2002
2.	Ved Vignana Maha Vidya Peeth, No. 19, 39th 'A' Cross, 11th Main Road, 4th 'T' Block, Jayanagar, Bangalore-560041.	1-4-2000 to 31-3-2002
3.	Institute of Marketing & Management, 62-F, Sujana Singh Park, New Delhi-110003 (F. No. 203/107/2000-ITA-II)	1-4-1999 to 31-3-2001

Notes : The notified Institution is advised to apply in triplicates and well in advance for further extension of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for extension of approval shall be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 11565/F. No. 203/103/2000-ITA-II & others]

KAMIESH C. VARSHNEY, Under Secy.

नई दिल्ली, 28 नवम्बर, 2000

(आयकर)

का.आ.2758.—सर्वसाधारण संस्था की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के खंड (iii) के प्रयोजनार्थ अधोलिखित संगठनों को उनके नाम के सामने उल्लिखित अवधि के लिए

“संस्था” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- अधिसूचित संस्था अपनी अनुसंधान गतिविधियों के लिए अलग से लेखा बही रखेगा।
- अधिसूचित संस्था हरेक वित्त वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिपोर्ट प्रतिवर्ष 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, प्रौद्योगिकी भवन, न्यू महरौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा;
- अधिसूचित संस्था केन्द्र सरकार की तरफ से नामित कर निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अलावा अपने लेखा परीक्षित वार्षिक लेखे की एक प्रति तथा अपनी अनुसंधान गतिविधियों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय और व्यय खाते की लेखा परीक्षा की एक प्रति प्रतिवर्ष 31 अक्टूबर को अथवा उससे पहले संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) मिडलटन राँ 5 वां तल कलकत्ता 700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रस्तुत करेगा।

क्र.सं. अनुमोदित संस्था का नाम अवधि जिसके लिए अधिसूचना प्रभावी है

- संयंत्र अनुसंधान के लिए नारौजी 1-4-2000 से गोदरेज, पीरोइशा नगर, एल. बी. 31-3-2003 एस. मार्ग, विखरौली, मुम्बई-79 (फा.सं. 203/103/2000-आ.क.नि.II)
- सीता राम बहारतिया इन्स्टीट्यूट 1-4-2000 से आफ सार्डस एंड रिसर्च, ब्लॉक आई.ई., 31-3-2003 216, आचार्य जगदीश चन्द्रबोस रोड, कलकत्ता-700017 (फा. सं. 203/104/2000-आ.क.नि.II)
- नेशनल फाऊण्डेशन आफ 1-4-1999 से इन्डियन इंजीनियर्स 11/6 बी. 31-3-2001 पूसा रोड, नई दिल्ली-110005 (फा. सं. 203/104/2000-आ.क.नि.II)

4. सुश्रंत मेडिकल केयर एण्ड रिसर्च 1-4-2000 से
सोसाइटी, 1160/61, शिवाजी 31-3-2003
नगर, पूणे-110005
(फा. सं. 203/107/2000-
आ.क.नि.II)
5. नेशनल अकादमी आफ मेडिकल 1-4-2000 से
साईंस (इन्डिया) अंसारी नगर, 31-3-2003
महात्मा गांधी मार्ग,
नई दिल्ली-110029
(फा.सं. 203/107/2000-
आ.क.नि.II)

टिप्पणी : अधिसूचित संस्था को यह सलाह दी जाती है कि वे अनुमोदन के नवीकरण जाने हेतु पहले से ही तीन प्रतियों में अपने क्षेत्राधिकार में आने वाले आयकर आयुक्त आयकर महानिदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के विस्तार के लिए आवेदन पत्र की तीन प्रतियाँ सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग को भी सीधे भेजी जाएंगी।

[अधिसूचना सं. 11566/फा. सं. 203/103/2000-
आ.क.नि.II और अन्य]

कमलेश सी. बाण्णैय, अव्वर सचिव

New Delhi, the 28th November, 2000

(INCOME TAX)

S.O. 2758.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071 (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax | Director of Income tax (Exemptions), having jurisdiction over the organisation on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation approved	Period for which No ification is effective
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- | | | |
|----|---|-----------------------|
| 1. | Naraji Godrej Centre for Plant Research, Pirojsha Nagar, LBS Marg Vikhroli, Mumbai-79
(F. No. 203/103/2000-ITAI) | 1-4-2000 to 31-3-2003 |
| 2. | Sitaram Bharatia Institute of Science and Research, Block 1E, 216, Acharya Jagdish Chandra Bose Road, Calcutta-700017
(F. No. 203/104/2000-ITAI) | 1-4-2000 to 31-3-2003 |
| 3. | National Foundation of Indian Engineers, 11/6-B, Pusa Road, New Delhi-110005
(F. No. 203/104/2000-ITAI) | 1-4-1999 to 31-3-2001 |
| 4. | Sushrant Medical Care & Research Society, 1160/61, Shivaji Nagar, Pune-411005
(F. No. 203/107/2000-ITAI) | 1-4-2000 to 31-3-2003 |
| 5. | National Academy of Medical Sciences (India) Ansari Nagar, Mahatma Gandhi Marg, New Delhi-110029
(F. No. 203/107/2000-ITAI) | 1-4-2000 to 31-3-2003 |

Notes : The notified Institution is advised to apply in

triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 11566/F. No. 203/103/2000-ITA-II & Others]

KAMLESH C. VARSHNEY, Under Secy.

नई दिल्ली, 28 नवम्बर, 2000

शुद्धिपत्र

का.आ. 2759.—आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खण्ड (ii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार दिनांक 28 सितम्बर, 2000 की अधिसूचना संख्या 11526 की पृष्ठ संख्या 2 की क्रम सं. 3 पर संगठन के नाम में निम्नलिखित संशोधन करती है।

2. पृष्ठ 2 की क्रम संख्या 3 पर अनुमोदित संगठन का नाम निम्नतया पढ़ा जाए :

“वल्लभदास डागरे इंडियन सोसाइटी फार मेंटली रिटार्ड्ड, यूनिट; सेन्टर फार रिसर्च इन मेंटल रिटार्डेशन (सी. आर. ई. एफ. ई. आर. ई.) खुशालदास डागरे हाउस, रुइया हाल के निकट, मलाड़ (पश्चिम), मुंबई-400064.”

[अधिसूचना सं. 11567/फा.सं. 203/100/2000/आ.क.-नि.-II]

कमलेश सी. वाण्येय, अवर सचिव

New Delhi, the 28th November, 2000

CORRIGENDUM

S.O. 2759.—In exercise of power conferred in clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, the Central Government makes the following correction to the name of the organisation at S. No. 3 of Page 2 of the Notification No. 11526 dated 28th September, 2000.

2. At S. No. 3 of page 2, name of the organisation approved may be read as under :

“Valabhdas Dagara Indian Society for Mentally Retarded, (Unit : Centre for Research in

Mental Retardation (CREMERE), Khushaldas Dagare House, Near Ruia Hall, Malad (W), Mumbai-400064.”

[Notification No. 11567/F. No. 203/100/2000-ITA-II]

KAMLESH C. VARSHNEY, Under Secy.

नई दिल्ली, 7 दिसम्बर, 2000

का.आ. 2760.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा नीचे पैरा (3) में उल्लिखित औद्योगिक उपक्रम को आयकर नियमावली, 1962 के नियम 2(ड) के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के प्रयोजनार्थ कर-निर्धारण वर्ष 2001-2002, 2002-2003 और 2003-2004 के लिए अनुमोदित किया गया है।

1. उक्त अनुमोदन इस शर्त पर दिया गया है कि :

(i) उद्यम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(ii) केन्द्र सरकार इस अनुमोदन को वापस ले लेगी यदि उद्यम औद्योगिक उपक्रम :—

(क) मूलभूत सुविधा को जारी रखना बंद कर देता है, अथवा

(ख) खाता बहियों का रख-रखाव करने में और आयकर नियमावली, 1962 के नियम 2ड के उपनियम (7) द्वारा यथापेक्षित किसी लेखाकार द्वारा ऐसी बहियों की लेखा परीक्षा कराने में असफल हो जाता है, अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उपनियम (7) द्वारा यथापेक्षित लेखा-परीक्षा रिपोर्ट को प्रस्तुत करने में असफल हो जाता है।

3. अनुमोदन प्राप्त उद्यम/औद्योगिक उपक्रम के नाम के निम्नानुसार हैं :—

(i) मैसर्स बालाजी पावर कारपोरेशन प्रा.लि., 76 बैजुलाह रोड, टी. नगर चेन्नई-600017 द्वारा समयनलूर, मद्रुरै, जिला तमिलनाडु में 106 मेगावाट पावर प्लांट [फा.सं. 205/48/2000-आ.क.नि.-II]।

- (ii) मैसर्स नेशनल थर्मल पावर कारपोरेशन लि., एन.टी.पी.सी. भवन स्कोप कॉम्प्लेक्स, 7, इन्स्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003 की 2×5000 मेगावाट विन्ध्याचल सुपर थर्मल पावर प्रोजेक्ट, स्टेज-II मध्य प्रदेश 400 मेगावाट, कयामकुलम कम्बाइन्ड साइकिल पावर प्रोजेक्ट, केरल, 2×210 मेगावाट, फिरोजगांधी ऊंचाहर थर्मल पावर प्रोजेक्ट, स्टेज-II, उत्तर प्रदेश 400 मेगावाट फरीदाबाद गैस आधारित पावर प्रोजेक्ट, हरियाणा-2×500 मेगावाट सिम्हाद्री सुपर थर्मल पावर प्रोजेक्ट, आन्ध्र प्रदेश एवं 4×500 मेगावाट तालचेर सुपर थर्मल पावर प्रोजेक्ट, स्टेज-II ।

अधिसूचना सं. 11571/फा.सं. 205/48/2000-आ.क.नि.
एवं 205/70/2000-आ.क.नि.-II]

कमलेश सी. वार्ष्णेय, अवर सचिव

New Delhi, the 7th December, 2000

S.O. 2760.—It is notified for general information that enterprises/industrial undertakings, listed at para (3) below have been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2001-2002, 2002-2003 and 2003-2004.

2. The approval is subject to the condition that—

- (i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;
- (ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking :—

(a) ceases to carry on infrastructure facility:
or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprises/industrial undertakings approved are :—

- (i) 106 MW Power Plant in Semayanallur, Madurai District, Tamil Nadu by M/s Balaji Power Corporation Private Ltd., 76, Bazullah Road, T. Nagar, Chennai-600017 (F. No. 205/48/2000-ITA-II)
- (ii) 2×500 MW Vindhyachal Super Thermal Power Project, Stage-II, Madhya Pradesh, 400 MW Kayamkulam Combined Cycle Power Project, Kerala 2×210 MW (Feroe Gandhi Unchahar Thermal Power Project Stage-II Uttar Pradesh, 400 MW Faridabad Gas Based Power Project, Haryana, 2×500 MW Simhadri Super Thermal Power Project, Andhra Pradesh and 4×500 MW Talcher Super Thermal Power Project, Stage-II of M/s National Thermal Power Corporation Ltd. NTFC Bhawan, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003 (F. No. 205/70/2000-ITA-II).

[Notification No. 1157/F. No. 205/48/2000-ITA-II
and 205/70/2000-ITA-II]

KAMLESH C. VARSHNEY, Under Secy.

नई दिल्ली, 7 दिसम्बर, 2000

का.आ. 2761.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा नीचे पैरा (3) में उल्लिखित उद्यम/औद्योगिक उपक्रम को आयकर नियमावली, 1962 के नियम 2(ड) के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के प्रयोजनार्थ कर-निर्धारण वर्ष 2000-2001, 2001-2002 और 2002-2003 के लिए अनुमोदित किया गया है ।

2. उक्त अनुमोदन इस शर्त पर किया गया है कि :—

- (i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा,

(ii) केन्द्र सरकार इस अनुमोदन को वापस ले लेगी यदि उद्यम/औद्योगिक उपक्रम —

(क) मूलभूत सुविधा को जारी रखना बंद कर देता है, अथवा

(ख) खाता-बहियों का रख-रखाव करने में और आयकर नियमावली, 1962 के नियम 2ड के उपनियम (7) द्वारा यथापेक्षित किसी लेखाकार द्वारा ऐसी बहियों की लेखा परीक्षा कराने में असफल हो जाता है, अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उपनियम (7) द्वारा यथापेक्षित लेखा परीक्षा रिपोर्ट को प्रस्तुत करने में असफल हो जाता है।

अनुमोदन प्राप्त उद्यम/औद्योगिक उपक्रम के नाम निम्नानुसार है :—

मैमर्स के ए इन्फ्रास्ट्रक्चर लि., 617, अन्ना साले, चेन्नई-600006 की पेरुनगुडी गांव, जिला तिरुनवेली, तमिलनाडु में 1 मेगावाट बाइंड फार्म विद्युत परियोजना।

[फा० सं० 205/128/99-आयकर निII]

[अधिसूचना सख्या फा० सं० 11572/205/128/99-आ.क. नि -II]

कमलेश सी. वाण्येय, अवर सचिव

New Delhi, the 7th December, 2000

S. 2761.—It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2000-2001, 2001-2002 and 2002-2003.

2. The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking —

(a) ceases to carry on infrastructure facility, or

(b) fails to maintain books of account and get such accounts, audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3 The enterprise/industrial undertaking approved is—1 MW wind farm power project at Perungudi Village, Tirunelveli District, Tamil Nadu of M's. K.A. Infrastructure Ltd., 617, Anna Salai, Chennai-600006

[F. No. 205/128/99-ITA-II]

[Notification No. 11572/205/128/99-ITA-II]

KAMLESH C. VARSHNEY, Under Secy.

शहरी विकास और गरीबी उपशमन मंत्रालय

(दिल्ली प्रभाग)

नई दिल्ली, 30 नवम्बर, 2000

का.आ 2762.—यत्. केन्द्र सरकार का दिल्ली के मास्टर प्लान-2001 में कतिपय उपांतरण करने का प्रस्ताव है, जो दिल्ली विकास अधिनियम, 1956 (1957 का 61) की धारा 44 के उपबंधों के अनुसार दिनांक 29-9-2000 के असाधारण राजपत्र में प्रकाशित किये गये थे, जिसके द्वारा कथित अधिनियम की धारा 11-ए की उप धारा (3) की अपेक्षानुसार नोटिस की तारीख से 30 दिन के अन्दर आपत्तियाँ/सुझाव आमंत्रित किये गए थे।

2. यत् प्रस्तावित उपांतरण के बारे में कोई आपत्ति/सुझाव प्राप्त नहीं हुआ, और यत् केन्द्र सरकार के मामले के सभी पहलुओं पर सावधानीपूर्वक विचार करने के बाद मास्टर प्लान में उपांतरण का निर्णय लिया है।

3. अतः अब कथित अधिनियम की धारा 11-ए की उपधारा 2 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार भारत के राजपत्र में अधिसूचना के प्रकाशित होने की तारीख से दिल्ली के कथित मास्टर प्लान में एतद्वारा निर्म्माविश्वित उपांतरण करती है जो इस अधिसूचना के भारत के राजपत्र में प्रकाशन की तारीख से प्रभावी होगा।

उपांतरण

अखिल भारतीय आयुर्विज्ञान संस्थान, अंसागी नगर,
नई दिल्ली-110029 के ग्राउंड कवरेज और फर्शीक्षेत्र
अनुपात (एफ ए आर) में वृद्धि निम्नानुसार है :—

वर्तमान संशोधित

(i) ग्राउंड कवरेज	25 प्रतिशत	35 प्रतिशत
(ii) फर्शीक्षेत्र अनुपात (एफ ए आर)	100	150

[सं. के-20013/13/99-डीडी-I बी]

महेन्द्र कुमार, अवर सचिव

MINISTRY OF URBAN DEVELOPMENT AND
POVERTY ALLEVIATION

(Delhi Division)

New Delhi, the 30th November, 2000

S.O. 2762.—Whereas certain modifications which the Central Government proposes to make in the Master Plan for Delhi-2001 were published in Gazette Extraordinary dated 29-9-2000 in accordance with the provisions of Section 44 of the Delhi Development Act, 1956 (61 of 1957) inviting objection/suggestion as required by Sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice;

2. Whereas no objection/suggestion was received with regard to the proposed modification and whereas the Central Government have after carefully considering all aspects of the matter, decided to modify the Master Plan;

3. Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 11-A of the said Act, the Central Government hereby makes the following modification in the said Master Plan for Delhi with effect from the date of Publication of this Notification in the Gazette of India.

MODIFICATION

The increased ground coverage and Floor Area Ratio (FAR) in respect of All India Institute of

Medical Science, Ansari Nagar, New Delhi-110029 is as under :

	Existing	Modified
(i) Ground coverage	25%	35%
(ii) Floor area ratio (FAR)	100	150

[No. K-20013/13/99-DDIB]

MAHENDRA KUMAR, Under Secy.

नई दिल्ली, 7 दिसम्बर, 2000

का.आ.2763—केन्द्र सरकार द्वारा दिल्ली नगर कला आयोग अधिनियम, 1973 (1974 का 1) की धारा 4 व 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार शहरी विकास मंत्रालय (दिल्ली प्रभाग) की दिनांक 13 जुलाई, 2000 की अधिसूचना स. का.आ. 1614 का अधिक्रमण करते हुए श्री मधुकर गुप्ता, संयुक्त सचिव (दिल्ली तथा भूमि) को दिल्ली नगर कला आयोग में सदस्य (अंशकालिक) के रूप में शामिल करने के लिए इस अधिसूचना के प्रकाशन की तारीख से 3 वर्ष के लिए अथवा उनके द्वारा आयोग का कार्य देखने की तारीख तक, इनमें जो भी पहले हो, नियुक्त किया जाता है।

[सं. ए-11013/1/99-डीडी VI]

दीवान चन्द, अवर सचिव

New Delhi, the 7th December, 2000

S.O. 2763.—In exercise of the powers conferred by Sections 4 and 5 of the Delhi Urban Art Commission Act, 1973 (1 of 1974) and in supersession of the Government of India in the Ministry of Urban Development (Delhi Division) No. S.O. 1614 dated 13th July, 2000, the Central Government hereby appoints Sh. Madhukar Gupta, Joint Secretary (Delhi and Lands) as Member (part-time) of the Delhi Urban Art Commission from the date of publication of the Notification in the Official Gazette for a period of 3 years or the date upto which he shall be looking after the affairs of the Commission whichever is earlier.

[No. A-11013/1/99-DDVI]

DIWAN CHAND, Under Secy.

उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय

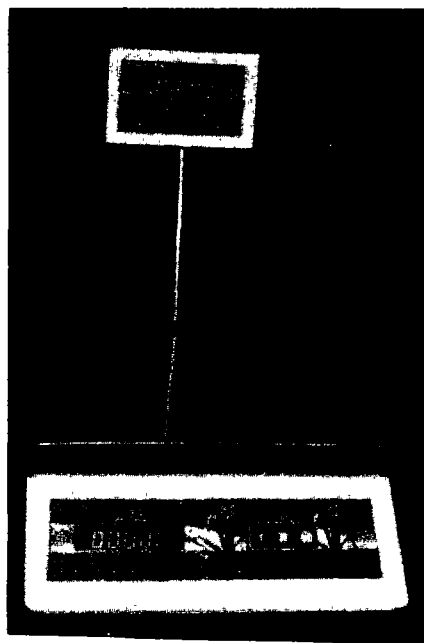
(उपभोक्ता मामले विभाग)

नई दिल्ली, 6 दिसम्बर, 2000

का. आ. 2764.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवाधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले "एच एस डीलक्स 501 टी" श्रृंखला के अस्वचालित अंकक, टेबल टॉप प्रकार के तोलन उपकरण के माडल का, जिसके ब्रांड का नाम "हरिस्टो" है (जिसे इसमें इसके पश्चात् "माडल" कहा गया है) और जिसका विनिर्माण मैसर्स अरिस्टोस्केल कंपनी, सं. 36, 4 पी गली, मद्रुरै-625001 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/153 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है:

यह माडल एक तोलन उपकरण है, जिनकी अधिकतम क्षमता 5 किलो ग्राम और न्यूनतम क्षमता 20 ग्राम है। जिसका सत्यापन मापमान अंतराल (ई) 1 ग्राम है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ;



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यकरण वाले ऐसे तोलन उपकरण भी होंगे, जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसकी अधिकतम क्षमता 50 कि. ग्रा. तक है और सत्यापन मापमान अंतराल (एन) की अधिकतम संख्या 10,000 (एन \leq 10,000) से कम या उसके बराबर तक है जिसका "ई" मान 1×10^{-6} के, 2×10^{-6} के और 5×10^{-6} के है, जहां के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(104)/99]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

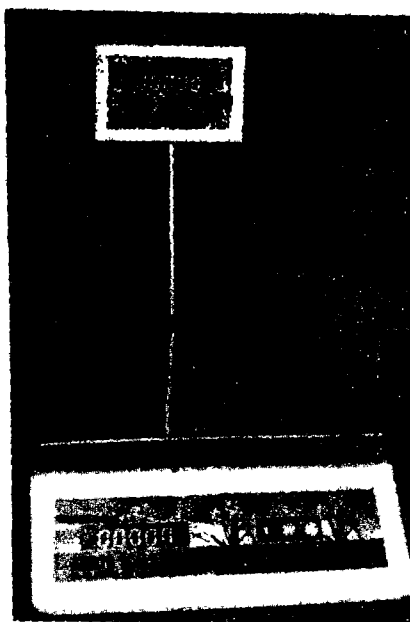
MINISTRY OF CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 6th December, 2000

S. O. 2764.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic, digital, table top type weighing instrument of "HS Delux 501T" series of medium accuracy class (class III accuracy) and with brand name "HARISTO" (hereinafter referred to as the model), manufactured by M/s. Aristo Scale Company, No. 36, 4th Street, Madurai-625001 and which is assigned the approval mark IND/09/99/153;

The said model is a weighing instrument with a maximum capacity of 5 kg and minimum capacity of 20 g. The verification scale interval (e) is 1g. The light emission diode indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz, alternate current power supply,



Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series of maximum capacity up to 50 kg with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value to 1×10 , 2×10 and 5×10 , k being a positive or negative whole number or equal to zero manufactured by the same manufactured in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No W.M.-21(104)/99]

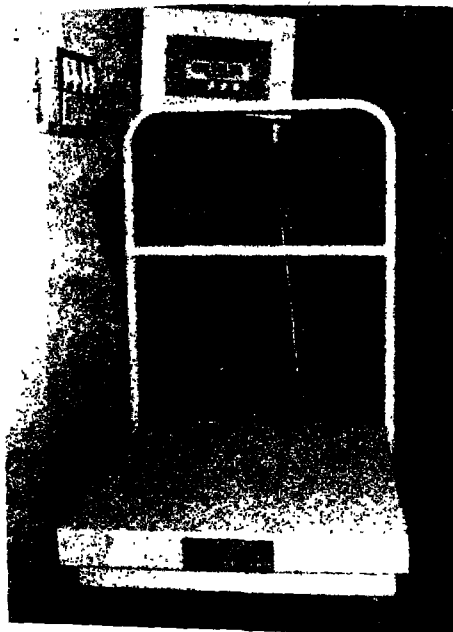
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 6 दिसम्बर, 2000

का. आ. 2765.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “एच एस डीलक्स 501 पी” शृंखला के अस्वचालित अंकक प्लेटफार्म प्रकार के तोलन उपकरण के माडल का, जिसके ब्रांड का नाम “हरिस्टो” है (जिसे इसमें इसके पश्चात् “माडल” कहा गया है) और जिसका विनिर्माण मैसर्स अरिस्टो स्केल कंपनी, सं. 36, 4 थी गली, मदुरै-625001 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/154 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है ;

यह माडल एक तोलन उपकरण है, जिनकी अधिकतम क्षमता 120 किलो ग्राम और न्यूनतम क्षमता 400 ग्राम है। जिसका सत्यापन मापमान अन्तराल (ई) 20 ग्राम है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ;



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यकरण वाले ऐसे तोलन उपकरण भी होंगे, जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिनकी अधिकतम क्षमता 5000 कि. ग्रा. तक है और सत्यापन मापमान अंतराल (एन) की अधिकतम संख्या 10,000 (एन \leq 10,000) से कम या उसके बराबर तक है तथा जिसका “ई” मान 1×10 के, 2×10 के और 5×10 के हैं, जहां के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(104)/99]

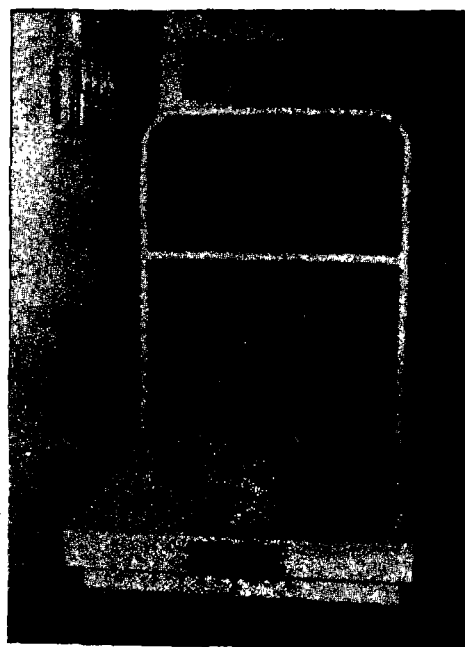
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 6th December, 2000

S. O. 2765.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, digital, Platforms Type weighing instrument of “HS Delux 501P” series of medium accuracy class (class III accuracy) and with brand name “HARISTO” the (hereinafter referred to as model), manufactured by M/s. Aristo Scale Company, No. 36, 4th Street, Madurai-625001 and which is assigned the approval mark IND/09/99/154;

The said model is a weighing instrument with a maximum capacity of 120 kg and minimum capacity of 400 g. The verification scale interval (e) is 20 g. The light emission diode indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz, alternate current power supply;



Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series of maximum capacity up to 5000 kg with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with ‘e’ value to 1×10 , 2×10 and 5×10 , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. W.M.-21(104)/99]

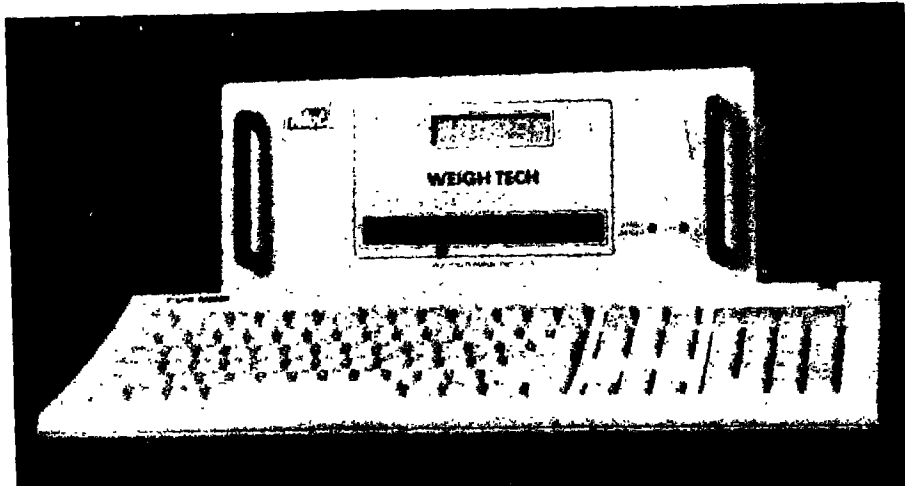
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 6 दिसम्बर, 2000

का. आ. 2766.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली एफ डब्ल्यू टी-2079 श्रृंखला की, अस्वचालित तोलन उपकरण (मल्टी लोड सैल के वे ब्रिज) के माडल का, जिसके ब्रांड का नाम “वे टैक” है (जिसे इसमें इसके पश्चात् “माडल” कहा गया है) और जिसका विनिर्माण मैसर्स निओ वे टैक प्रा. लि. 55-10-36, एम एम टी सी कालोनी, एच बी कालोनी डाकघर, विशाखापत्तनम-530022 द्वारा किया गया है और जिसे अनुमोदन विह्न आई एन डी/09/2000/89 समनुदेशित किया है; अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (आकृति देखें) तोलन उपकरण है, जिसकी अधिकतम क्षमता 30000 कि. ग्र. और न्यूनतम क्षमता 100 कि. ग्र. है। सत्यापन मापमान अन्तराल (ई) 5 कि. ग्र. है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्ययकलनात्मक धारित आधेयतुलन प्रभाव है। भारग्राही आयताकार सैक्शन का है जिसकी भुजाएं 9×3 मीटर हैं। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, 5 टन से अधिक की अधिकतम क्षमता के उसी श्रृंखला के, उसी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 10,000 से कम या उसके बराबर तक है (एन \leq 10,000) तथा जिसका “ई” मान 1×10^{-5} , 2×10^{-5} और 5×10^{-5} है, जहां के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(28)/2000]

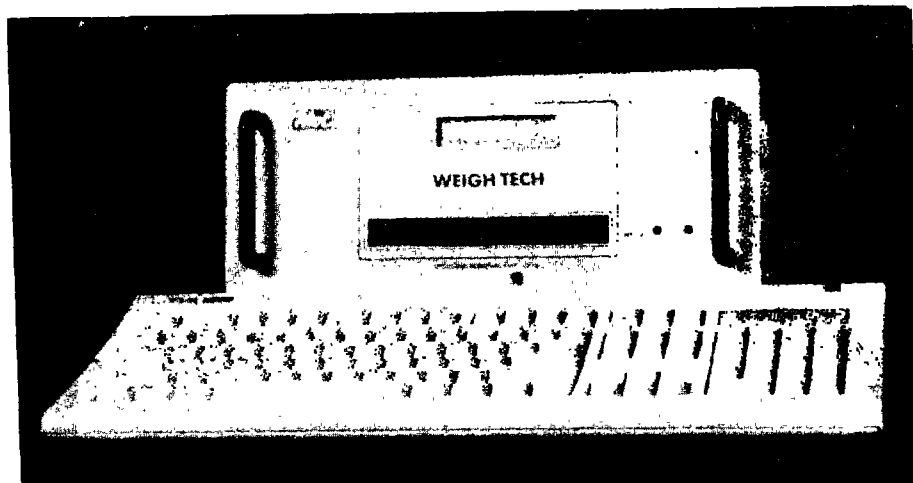
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 6th December, 2000

S. O. 2766.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic, weighing instrument (Multi load cell type Weigh bridge) of "FWT-2079" series belonging to medium accuracy class (accuracy class III) with brand name "Weigh Tech" (hereinafter referred to as the model) manufactured by M/s. Neo Weigh Tech Pvt. Ltd., 55-10-36 M.M.T.C. Colony, HB Colony P.O., Visakhapatnam-530022 and which is assigned the approval mark IND/09/2000/89.

The said model (see figure) is a weighing instrument with a maximum capacity of 30000kg and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of side 9×3m. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum capacity above 5 tonne with number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1×10^k , 2×10^k , and 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. W.M.-21(28)/2000]

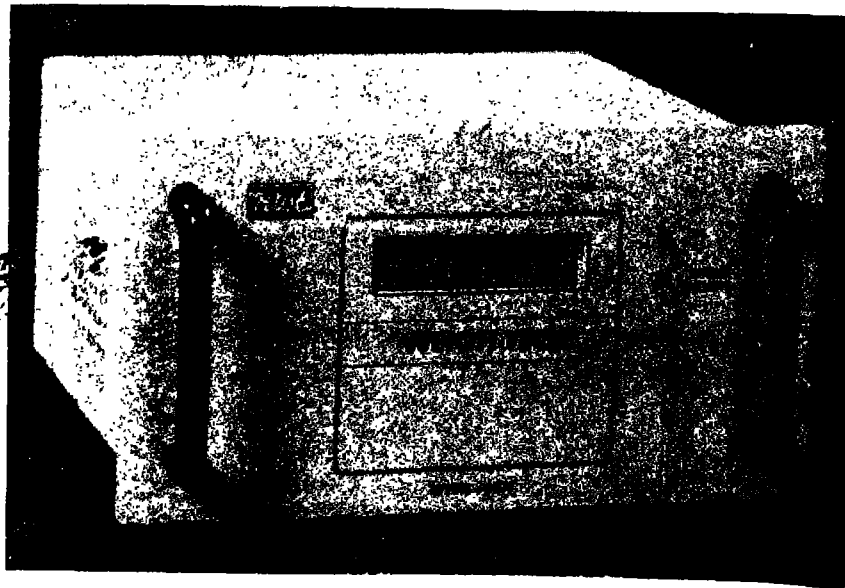
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 6 दिसम्बर, 2000

का. आ.2767.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली डब्ल्यू टी पी एस-1071 शृंखला की, अस्वचालित तोलन उपकरण के माडल का, जिसके ब्रांड का नाम “वे टैक” है (जिसे इसमें इसके पश्चात् “माडल” कहा गया है) और जिसका विनिर्माण मैसर्स निओ वे टैक प्रा. लि., 55-10-36, एम एम टी सी कालोनी, एच बी कालोनी डाकघर, विशाखापत्तनम-530022 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/2000/88 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (आकृति देखें) तोलन उपकरण है, जिसकी अधिकतम क्षमता 100 कि. ग्र. और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अन्तराल (ई) 20 ग्रा. है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्ययकलनात्मक धारित आधेयतुलन प्रभाव है। भारग्राही आयताकार सैक्शन का है जिसकी भुजाएं 450×500 मि. मीटर हैं। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के 5000 कि. ग्रा. तक की अधिकतम क्षमता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 10,000 से कम या उसके बराबर है (एन \leq 10,000) तथा जिसका “ई” मान 1×10^{-5} , 2×10^{-5} और 5×10^{-5} है, जहां के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(28)/2000]

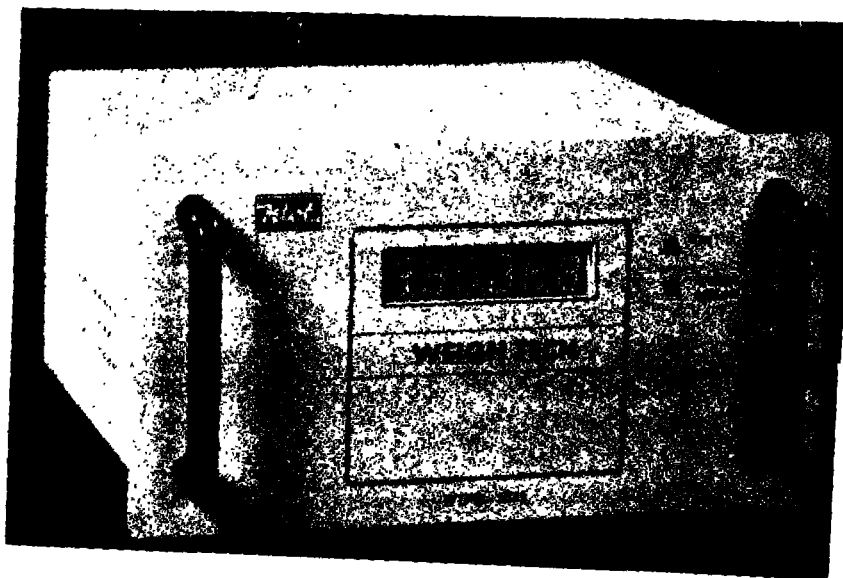
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 6th December, 2000

S. O. 2767.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the non-automatic, weighing instrument (Platform type) Weigh Tech of WTPS-1071 series belonging to medium accuracy class (Accuracy class III) with brand name "Weigh Tech" (hereinafter referred to as the model) manufactured by M/s. Neo Weigh Tech Pvt. Ltd., 55-10-36 M.M.T.C. Colony, HB Colony P.O., Visakhapatnam-530022 and which is assigned the approval mark IND/09/2000/88.

The said model (see figure given) is weighing instrument with a maximum capacity of 100kg and minimum capacity of 400g. The verification scale interval (e) is 20g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of side 450×50 millimetre. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum capacity up to 5000 kg with number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1×10^k , 2×10^k and 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

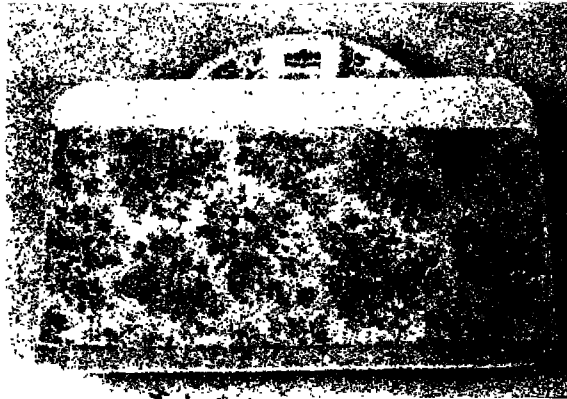
[F. No. W.M.-21(28)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 6 दिसम्बर, 2000

का. आ. 2768.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ई. कांटावाला प्राइवेट लिमिटेड, सं. 56/65 एवर ग्रीन इण्डस्ट्रीयल इस्टेट, शक्ति मिल लेन, महालक्ष्मी, मुबई-400 011 द्वारा विनिर्मित यथार्थता वर्ग (यथार्थता वर्ग) वाले शृंखला के अस्वचालित तोलन उपकरण (तोलन मशीन सादृश्य प्रदर्श सहित बच्चा और शिशु तोलन मशीन प्रकार) के माडल का, जिसके ब्रांड का नाम "ईगल" है (जिसे इसमें इसके पश्चात् "माडल" कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2000/154 दिया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



यह माडल साधारण यथार्थता वर्ग (यथार्थता वर्ग IV) का अंकक सूचन सहित अस्वचालित यांत्रिक बच्चा और शिशु तोलन उपकरण डायल प्रकार है। इसकी अधिकतम क्षमता 25 किलोग्राम और न्यूनतम क्षमता 1 किलोग्राम है। सत्यमान मापमान (ई) मान 100 ग्राम है। प्वाइंटर सहित डायल तोलन परिणाम दिखाता है।

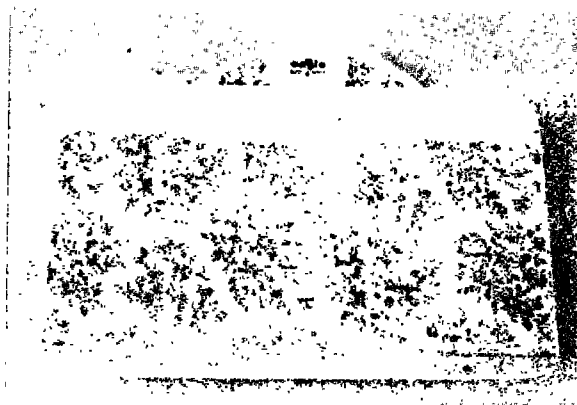
[फा. सं. डब्ल्यू. एम.-21(51)/97]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 6th December, 2000

S. O. 2768.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument (Baby-cum-Child weighing machine with analogue display) (hereinafter referred to as model) with brand name "EAGLE" manufactured by M/s E. Kantawalla Pvt. Ltd, No. 56/65, Evergreen Industrial Estate, Shakti Mill Lane, Mahalakshmi, Mumbai-400 011 and which is assigned the approval mark IND/09/2000/154;



The model is a non-automatic Mechanical baby-cum-child weighing machine (dial type) belonging to Ordinary accuracy class (Class IV accuracy). Its maximum capacity is 25 kg and minimum capacity is 1 kg. The verification scale interval (e) is 100 g. The dial with a pointer indicates the weighing result.

[F. No. W.M.-21(51)/97]

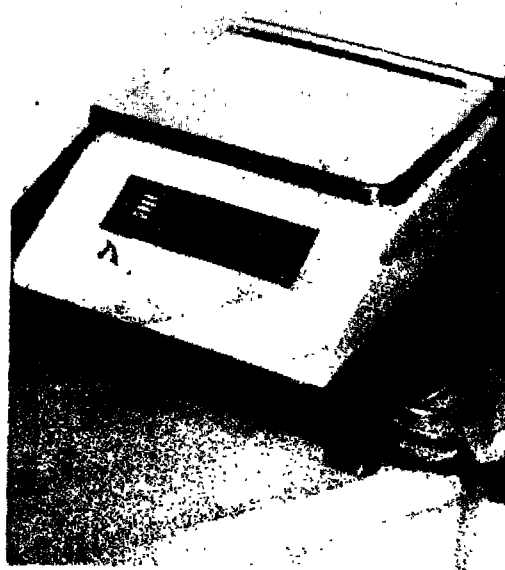
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2769.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम (यथार्थता वर्ग III) वाली “एम टी” शृंखला की अस्वचालित (टेबल टाप प्रकार का), अंकक सूचन सहित तोलन उपकरण के माडल का, जिसके ब्रांड का नाम “एड-रीम स्केल” है (जिसे इसमें इसके पश्चात् “माडल” कहा गया है) और जिसका विनिर्माण मैसर्स एड-रीम इंडिया, 407 आकाशरथ, बी/एच, परीशीमा सी.जी. रोज के परे, अहमदाबाद-380006 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/00/48 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित (टेबल टाप प्रकार का अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 10 कि. ग्रा. और न्यूनतम क्षमता 20 ग्रा. है। सत्यापन मापमान अन्तराल (ई) 1 ग्राम है। प्रकाश उत्सर्जक डायोड (प्र. उ. डा.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक और यथार्थता वर्ग वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिसके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 10,000 से कम या उसके बराबर तक है (एन $\leq 10,000$) तथा जिसका “ई” मान 1×10^3 , 2×10^3 और 5×10^3 है, जहां ‘के’ घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(6)/99]

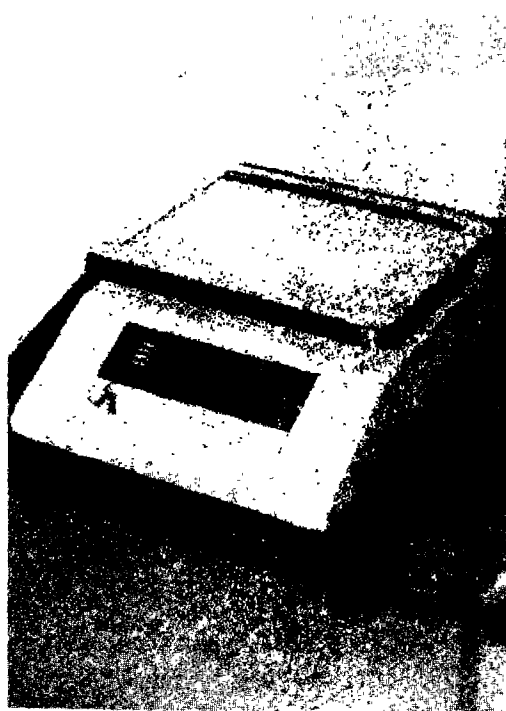
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2769 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third proviso to sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument (Table top type) with digital indication (hereinafter referred to as the model) of "MT" series belonging to medium accuracy class (Accuracy class III) and with brand name "AD-REEM SCALE" manufactured by M/s AD-REEM India, 407, Akashrath, B/H, Parisheema, Off. C.G. Road, Ahmedabad-380 006 and which is assigned the approval mark IND/09/00/48;

The model is a Non-automatic weighing instrument of table top type with digital indication of maximum capacity of 10kg., minimum capacity of 20g. and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 1g. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 220 Volts and 50-Hertz, alternate current power supply ;



And further, in exercise of the power conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover weighing instruments of same make, and accuracy class with maximum capacity up to 50 kg with number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with 'e' value of 1×10^k , 2×10^k , and 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials which, the approved model has been manufactured.

[F. No. W.M.-21(6)/99]

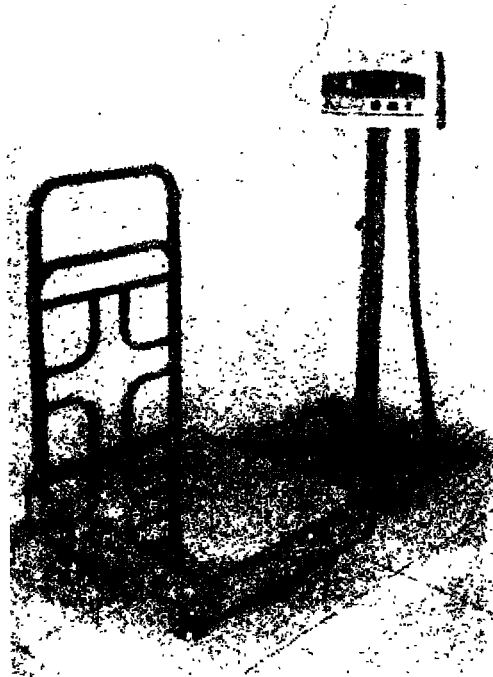
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2770 .—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली “एम पी” श्रृंखला की, अस्वचालित (प्लेटफार्म प्रकार का) अंकक सूचन सहित तोलन उपकरण के माडल का, जिसके ब्रांड का नाम “एड रीम स्केल” है (जिसे इसमें इसके पश्चात् “माडल” कहा गया है) और जिसका विनिर्माण मैसर्स एड रीम इंडिया, 407 आकाशरथ, बी/एच, परीशीमा सी.जी. रोज के परे, अहमदाबाद-380006 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/00/47 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है,

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचक सहित (प्लेटफार्म प्रकार का) अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 50 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 ग्राम है। प्रकाश उत्सर्जक डायोड (प्र. उ. डा.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक और यथार्थता वर्ग वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसकी अधिकतम क्षमता 5000 कि.ग्रा. तक है और जिसके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 10,000 से कम या उसके बराबर तक है (एन $\leq 10,000$) तथा जिसका “ई” मान 1×10^{-6} , 2×10^{-6} और 5×10^{-6} है, जहां के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(6)/99]

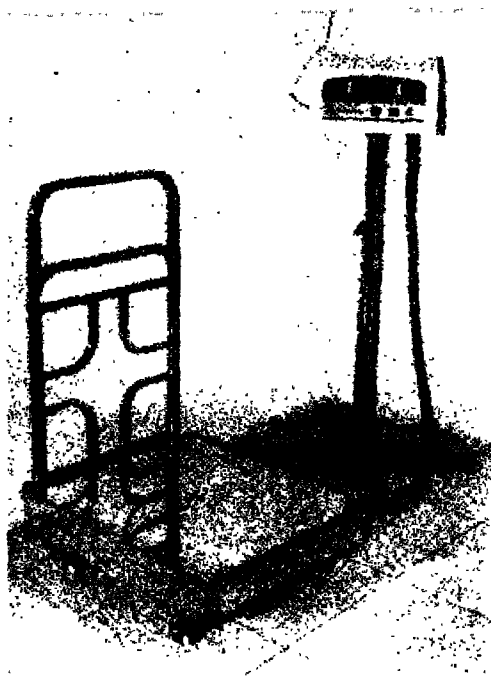
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2770.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic, weighing instrument (Platform type) with digital indication (hereinafter referred to as the model) of “MP” series belonging to medium accuracy class (Accuracy class III) and with brand name “AD-REEM SCALE” manufactured by M/s. AD-REEM India, 407, Akashrath, B/H, Parisheema, Off. C.G. Road, Ahmedabad-380 006 and which is assigned the approval mark IND/09/00/47;

The model is a non-automatic weighing instrument of platform type with digital indication of maximum capacity 50kg and minimum capacity 100g and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 5g. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 220 Volts and 50 Hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of same make, and accuracy class with maximum capacity upto 5000 kg with number of scale interval (n) upto 10,000 ($n \leq 10,000$) and with ‘e’ value of 1×10^k , 2×10^k , and 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer with same design and with the same materials which, the approved model has been manufactured.

[F. No. W.M -21(6)/99]

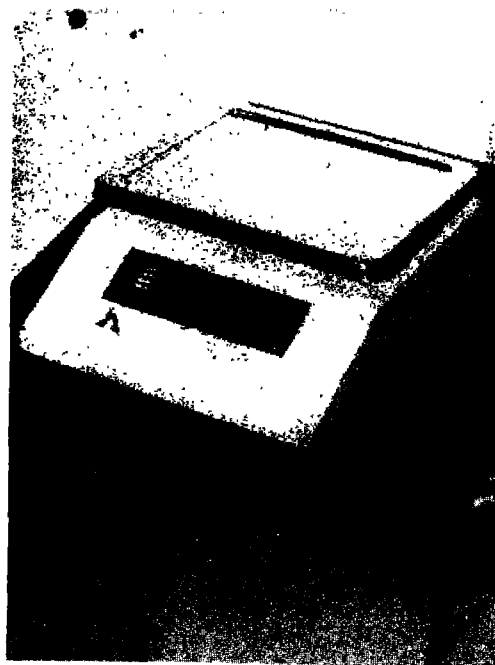
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2771.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाली “एच टी” श्रृंखला की, अस्वचालित (टेबल टॉप प्रकार का) अंकक सूचक सहित तोलन उपकरण के माडल का, जिसके ब्रांड का नाम “एड रीम स्केल” है (जिसे इसमें इसके पश्चात् “माडल” कहा गया है) और जिसका विनिर्माण मैसर्स एड रीम इंडिया, 407 आकाशरथ, बी/एच, परीशीमा सी.जी. रोज के परे, अहमदाबाद-380006 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/00/49 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है,

यह माडल उच्च यथार्थता वर्ग (यथार्थता वर्ग II) का अंकक सूचक सहित (टेबल टॉप प्रकार का) अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 550 ग्रा. और न्यूनतम क्षमता 1 ग्रा. है। सत्यापन मापमान अन्तराल (ई) 50 मि. ग्राम है। प्रकाश उत्सर्जक डायोड (प्र.उ.डा.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी मेक और यथार्थता वर्ग वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसकी अधिकतम क्षमता 50 कि.ग्रा. तक है और जिसके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 100,000 से कम या उसके बराबर तक है (एन $\leq 100,000$) तथा जिसका “ई” मान 1×10^6 , 2×10^6 और 5×10^6 है, जहां के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(6)/99]

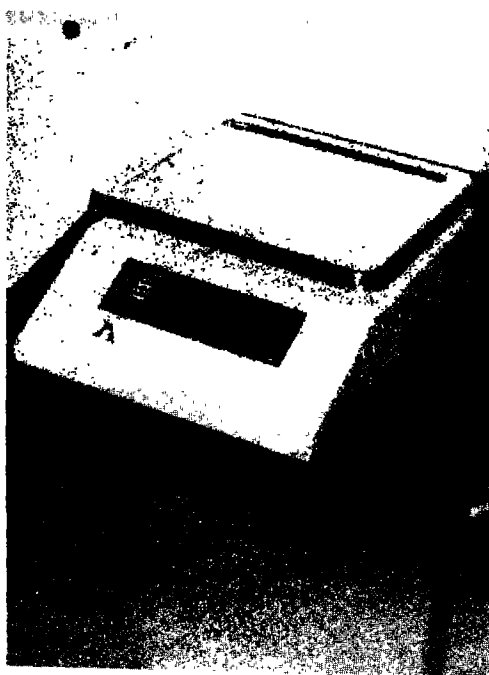
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2771.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument (Table top type) with digital indication (hereinafter referred to as the model) of "HT" series belonging to High accuracy class (Accuracy class II) with brand name "AD-REEM SCALE" manufactured by M/s. AD-REEM India, 407, Akashrath, B/H, Parisheema, Off. C.G. Road, Ahmedabad-380 006 and which is assigned the approval mark IND/09/00/49;

The model is a non-automatic weighing instrument of table top type with digital indication of maximum capacity 550g and minimum capacity 1g. and belonging to high accuracy class (accuracy class II). The value of verification scale interval (e) is 50mg. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 220 Volts and 50-Hertz, alternate current power supply.



And further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same make, and accuracy class with maximum capacity up to 50 kg with number of scale interval (n) upto 100,000 ($n \leq 100,000$) and with 'e' value of 1×10^k , 2×10^k , and 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which, the approved model has been manufactured.

[F. No. W.M.-21(6)/99]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2772.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स श्री इलैक्ट्रोनिक्स, 3, प्रोफेसर सोसायटी, वल्लभ विद्या नगर, गुजरात-388128 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “एस ई” शृंखला के अंकीय सूचन सहित अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के माडल का, (जिसे इसमें इसके पश्चात् माडल कहा गया) जिसके ब्रांड का नाम “आकाश गंगा” है। और जिसे अनुमोदन चिह्न आई एन डी/09/2000/140 दिया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकीय सूचन सहित प्लेटफार्म प्रकार का अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 60 किलो ग्रा. और न्यूनतम क्षमता 200 ग्रा. है। सत्यापन मापमान अन्तराल (ई) मान 10 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, और यथार्थता और कार्यपलन वाले ऐसे उपकरण भी होंगे जिनकी और अधिकतम क्षमता 5 टन तक है जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 10,000 से कम या उसके बराबर है (एन \leq 10,000) तथा जिसका “ई” मान 1×10^{-6} , 2×10^{-6} और 5×10^{-6} है, जिहां ‘के’ घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(63)/99]

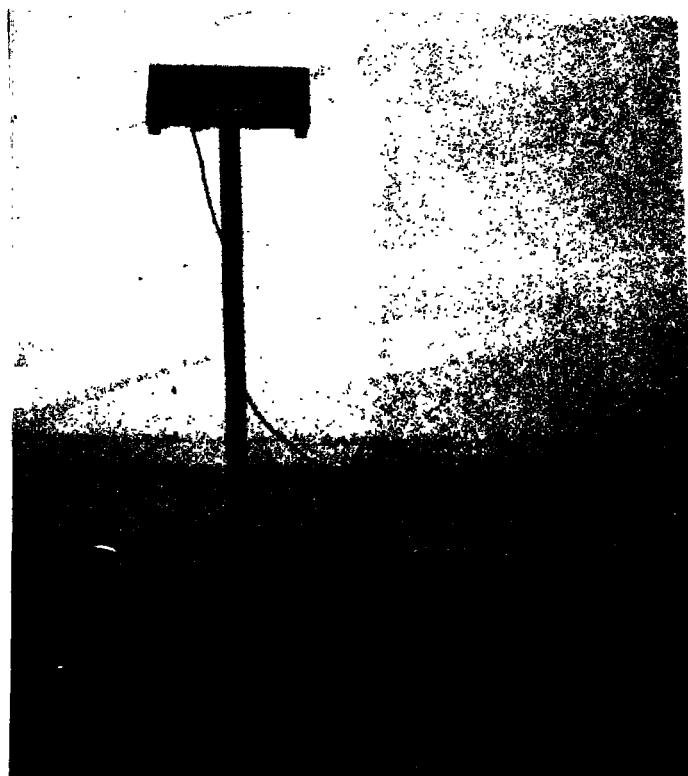
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2772.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication (hereinafter referred to as the model) of “SE” series belonging to Medium accuracy class (accuracy class III) and with brand name “AKASHGANGA” manufactured by M/s. Shree Electronics, 3, Professor Society, Vallabh Vidya Nagar, Gujarat-388 128 and which is assigned the approval mark IND.-2000/140 ;

The Model is a non-automatic weighing instrument of platform type with digital indication of maximum capacity 60 kg, minimum capacity 200 g and belonging to Medium accuracy class (accuracy class III). The value of verification scale interval (e) is 10 g. The display unit is of light emitting diode (LED) type. The instrument operates on 230 V, 50 Hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 5 ton and with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with ‘e’ value of 1×10^k , 2×10^k and 5×10^k k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials which the approved model has been manufactured.

[F No. WM -21(63)/99]

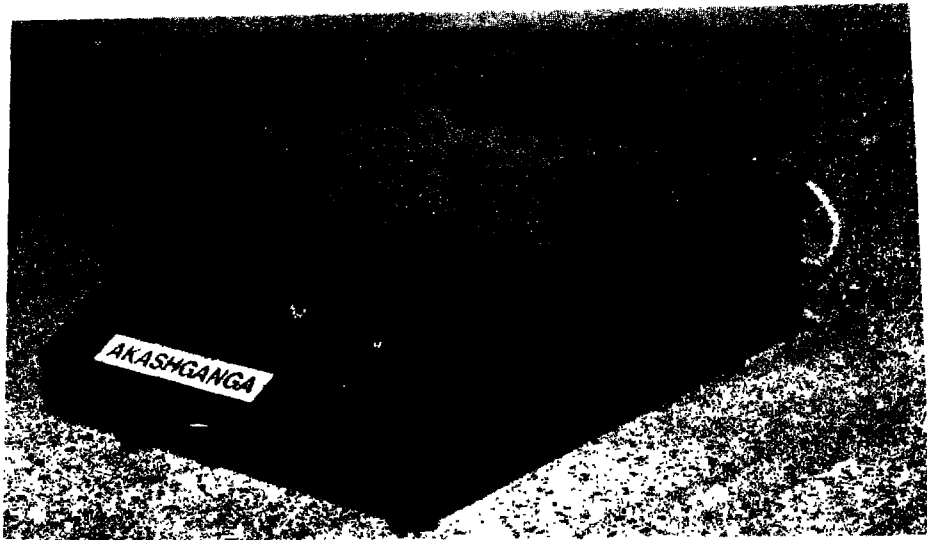
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसंबर, 2000

का. आ. 2773.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स श्री इलैक्ट्रोनिक्स, 3, प्रोफेसर सोसायटी, वल्लभ विद्या नगर, गुजरात-388128 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “एस ई” शृंखला के अंकीय सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के माडल का, (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसके ब्रांड का नाम “आकाशगंगा” है और जिसे अनुमोदन चिह्न आई एन डी/09/2000/139 दिया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकीय सूचन सहित टेबल टॉप प्रकार का अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 30 किलोग्राम और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) मान 5 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक और यथार्थता और कार्य पालन वाले ऐसे उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है और जिसके सत्यापन मापमान अन्तराल (एन) की संख्या 10,000 से कम या उसके बराबर है (एन \leq 10,000) तथा जिसका “ई” मान 1×10^{-6} , 2×10^{-6} और 5×10^{-6} है, जहां ‘के’ घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फ़. सं. डब्ल्यू. एम.-21(63)/99]

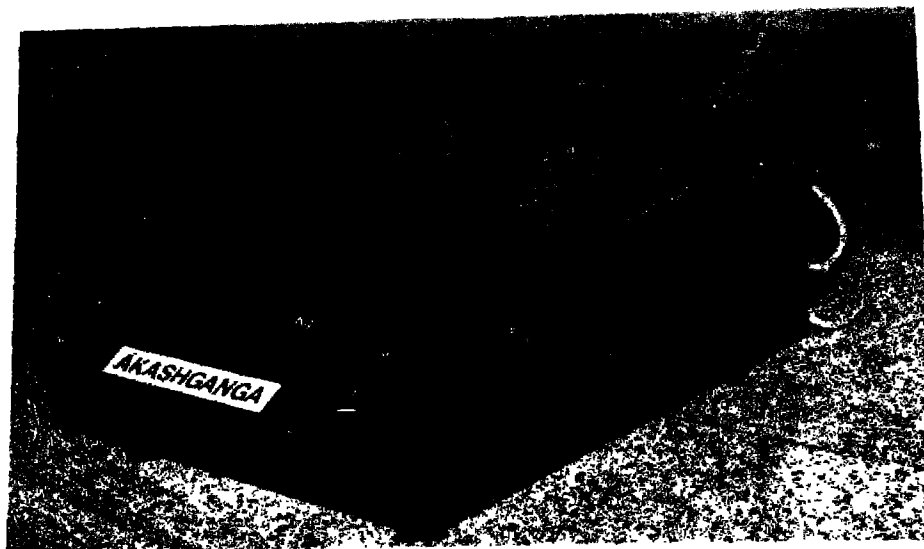
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2773.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument (Table Top type) with digital indication (hereinafter referred to as the model) of "SE" series belonging to Medium accuracy class (accuracy class III) and with brand name "AKASHGANGA" manufactured by M/s Shree Electronics, 3, Professor Society, Vallabh Vidya Nagar, Gujarat-388 128 and which is assigned the approval mark IND/09/2000/139.

The model is a non-automatic weighing instrument of Table Top type with digital indication of maximum capacity 30kg, minimum capacity 100 g and belonging to Medium accuracy class (accuracy class III). The value of verification scale interval (e) is 5 g. The display unit is of light emitting diode (LED) type. The instrument operates on 230 V 50 Hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg and with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1×10^k , 2×10^k , and 5×10^k , 'k' being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials which, the approved model has been manufactured.

[F. No. W.M.-21(63)/99]

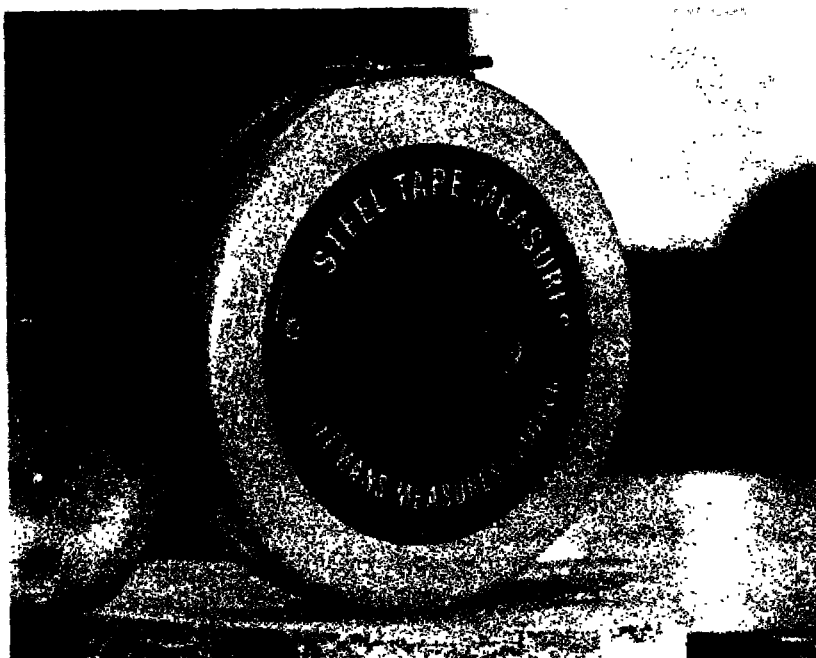
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसंबर, 2000

का. आ. 2774.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्रीमेन्ज मेजरिंग लिमिटेड, समीप गरचा ओर्चाडस, डाकघर जुगियाना, जी टी रोड, साहेंवाल, पंजाब, लुधियाना-141120 द्वारा विनिर्मित यथार्थता वर्ग II वाले “एस एन” श्रृंखला के स्टील टेप मइजर के माडल का जिसके ब्रांड का नाम “जी के” है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/00/191 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल (आकृति देखें) यथार्थता वर्ग II की स्टील मेजरिंग टेप है और जिसकी अधिकतम लम्बाई 30 मीटर और चौड़ाई 9.5 मि. मी. है। इसमें प्रत्येक 1 मिली मीटर पर अंशांकन है। इसे माप करने के लिए वहां उपयोग किया जाता है जहां स्थिर लम्बाई माप सुविधाजनक या व्यावहारिक नहीं है और इसे परिशुद्ध सर्वेक्षणों और वर्ग II यथार्थता के साधारण मापनों के लिए भी उपयोग किया जा सकता है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक यथार्थता और कार्यपालन वाले ऐसी सभी स्टील टेप मइजर्स भी होंगी जिसकी लम्बाई 30 मीटर तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(90)/99]

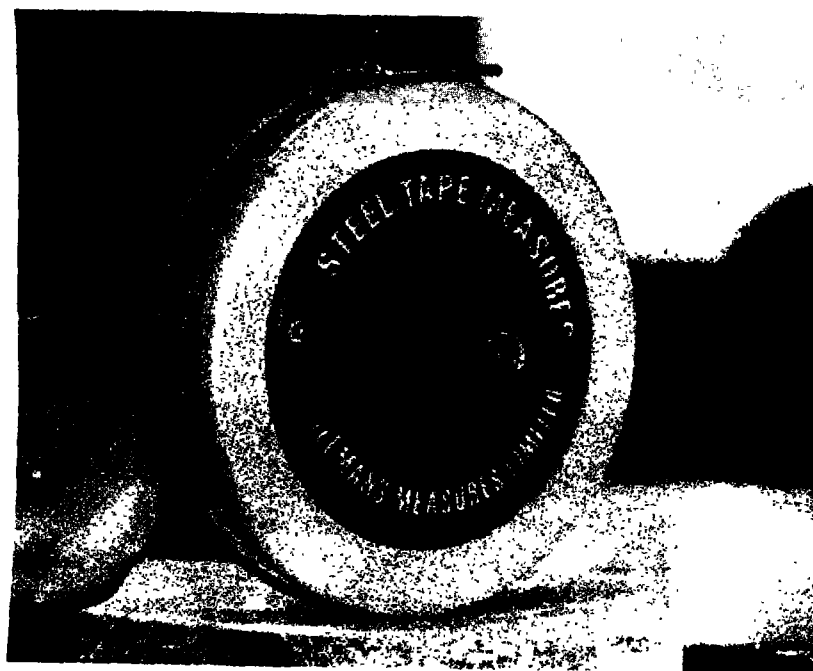
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2774.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render its accurate service under varied conditions,

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Steel tape measure of 'SN' series of accuracy class II and with brand name "GK" (hereinafter referred to as the model) manufactured by M/s. Freemans Measuring Limited, Near Garcha Orchards, P.O. Jugiana, G.T. Road, Sahenwal, Ludhiana-141120 Punjab which is assigned the approval mark IND/09/00/191;

The Model (see figure) is a Steel measuring tape of accuracy class II with a maximum length of 30 metre and width 9.5 millimetre. The graduation is at every 1 millimetre. It is used for measurement where the use of rigid length measure is not convenient or practicable and can also be used to measure precise surveying and general measurements of accuracy class II.



Further, in exercise of the powers conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover all Steel tape measures length upto 30 metre of similar make accuracy and performance and same series manufactured by the same manufacturer with the same principle, design and in accordance with the same materials with which, the approved Model has been manufactured.

[F. No. W.M.-21(90)/99]

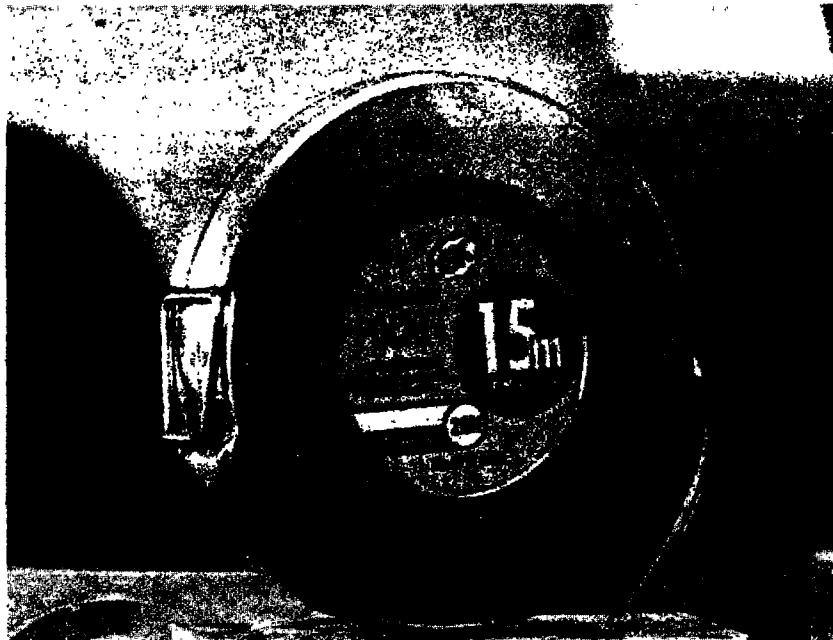
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2775.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्रीमेन्ज मेजरिंग लिमिटेड, समीप गरचा ओर्चाडस, डाकघर जुगियाना, जी. टी. रोड, साहेंवाल, पंजाब, लुधियाना-141120 द्वारा विनिर्मित यथार्थता वर्ग II वाले "इंजीनियर्स पाकेट ई पी" शृंखला के स्टील टेप मइजर के माडल का जिसके ब्रांड का नाम "जी के" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/00/192 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है,

यह माडल (आकृति देखें) यथार्थता वर्ग II की स्टील मेजरिंग टेप है और जिसकी अधिकतम लम्बाई 30 मीटर और चौड़ाई 9.5 मि. मी. है। इसमें प्रत्येक 1 मिलीमीटर पर अंशांकन है। इसे माप करने के लिए वहां उपयोग किया जाता है जहां स्थिर लम्बाई माप सुविधाजनक या व्यावहारिक नहीं है और इसे परिशुद्ध सर्वेक्षणों और वर्ग II यथार्थता के साधारण मापनों के लिए भी उपयोग किया जा सकता है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाली ऐसी सभी स्टील टेप मइजर्स भी होंगे जिनकी लम्बाई 30 मीटर तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है।

[फ़. सं. डब्ल्यू. एम.-21(90)/99]

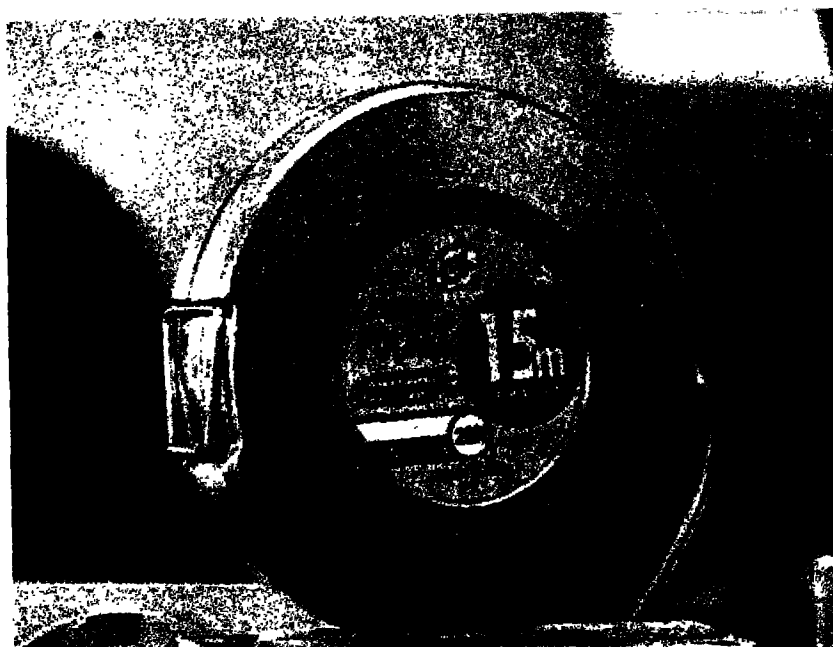
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2775.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render its accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Steel tape measure of 'Engineers Pocket-EP' series of accuracy class II and with brand name "GK" (herein referred to as the model) manufactured by M/s. Freemans Measuring Limited, Near Garcha Orchards, P.O. Jugiana, G.T. Road, Sahenwal, Ludhiana-141120 Punjab which is assigned the approval mark IND/09/00/192;

The Model (see figure) is a Steel measuring tape of accuracy class II with a maximum length of 30 metre and width 9.5 millimetre. The graduation is at every 1 millimetre. It is used for measurement where the use of rigid length measure is not convenient or practicable and can also be used to measure precise surveying and general measurements of accuracy class II.



Further, in exercise of the powers conferred by sub-section (12) of said section the Central Government hereby declares that this certificate of approval of the Model shall also cover all Steel tape measures length upto 30 metre of similar make accuracy and performance and same series manufactured by the same manufacturer with the same principle, design and in accordance with the same materials with which, the approved Model has been manufactured.

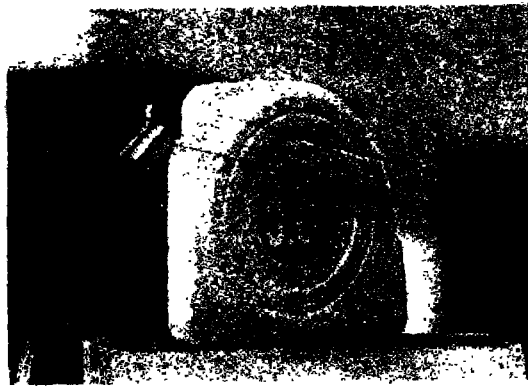
[F. No. W.M.-21(90)/99]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

का. आ. 2776.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्रीमेन्ज मेजरिंग लिमिटेड, समीप भारचा ओर्काडस, डाकघर जुगियाना, जी. टी. रोड, साहेवाल, पंजाब, लुधियाना-141120 द्वारा विनिर्मित यथार्थता वर्ग II वाली "पावर टेप पी टी" श्रृंखला के स्टील मेजरिंग टेप के माडल का जिसके ब्रांड का नाम "जी के" है (जिसे इसमें इसके पश्चात् माडल कहा गया है और जिसे अनुमोदन चिह्न आई एन डी/09/00/187 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (आकृति देखें) यथार्थता वर्ग II की स्टील मेजरिंग टेप है और इसकी अधिकतम लम्बाई 2 मीटर और चौड़ाई 13 मि. मी. है। इसमें प्रत्येक 1 मिलीमीटर पर अंशांकन है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाली ऐसी सभी स्टील मेजरिंग टेप भी होंगी जिनकी लम्बाई 5 मीटर तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है।

[फ़. सं. डब्ल्यू. एम.-21(90)/99]

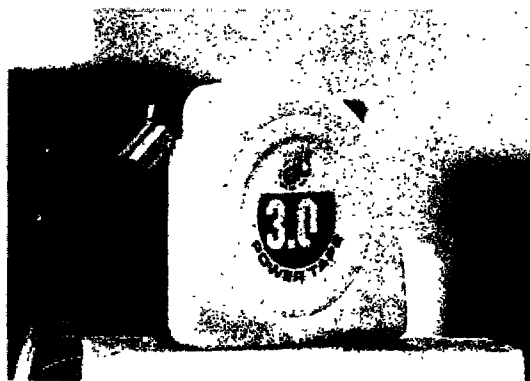
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2776.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Steel Measuring tape of "Power tape PT series of accuracy class II and with brand name "GK" (herein referred to as the model) manufactured by M/s Freemans Measuring Limited, Near Garcha Orchards, P.O. Jugiana G T Road, Sahenwal Ludhiana-141 120 Punjab and which is assigned the approval mark IND/09/00/187;

The Model (see figure) is Steel Measuring tape of accuracy class II with a maximum length of 2 metre and width of 13 millimetre. The graduation is at every 1 millimetre.



Further, in exercise of the powers conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover all Steel tape measures length upto 5 metre of similar make accuracy and performance and same series manufactured by the same manufacturer with the same principle, design and in accordance with the same materials with which, the approved Model has been manufactured.

[F. No. W.M.-21(90)/99]

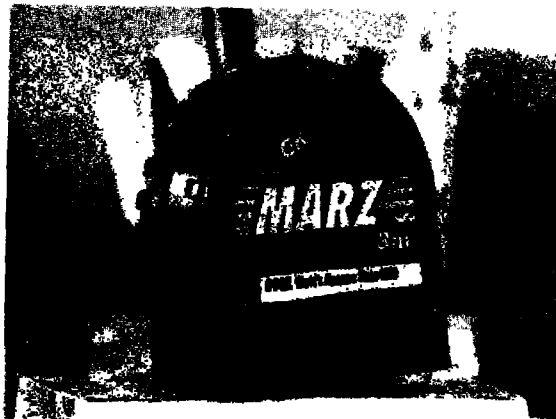
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2777.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्रीमेन्ज मेजरिंग लिमिटेड, समीप भारचा ओर्काडस, डाकघर जुगियाना, जी टी रोड, साहेवाल, पंजाब, लुधियाना-141120 द्वारा विनिर्मित यथार्थता वर्ग II वाली "गार्ज एम जेड" शृंखला के स्टील मेजरिंग टेप के माडल का जिसके ब्रांड का नाम "जी के" है (जिसे इसमें इसके पश्चात् माडल कहा गया है और जिसे अनुमोदन चिह्न आई एन डी/09/00/188 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (आकृति देखें) यथार्थता वर्ग II की स्टील मेजरिंग टेप है और जिसकी अधिकतम लम्बाई 3 मीटर और चौड़ाई 13 मि. मी. है। इसमें प्रत्येक 1 मिली मीटर पर अंशांकन है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाली ऐसी सभी स्टील मेजरिंग टेप भी होंगी जिनकी लम्बाई 5 मीटर तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है।

[फ़. सं. डब्ल्यू. एम.-21(90)/99]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2777.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render its accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Steel Measuring tape of 'MARZ-MZ' series of accuracy class II and with brand name "GK" (herein referred to as the model) manufactured by M/s Freemans Measuring Limited, Near Garcha Orchards, P.O. Jugiana, G.T. Road, Sahenwal Ludhiana-141 120 Punjab which is assigned the approval mark IND/09/00/188;

The Model (see figure) is a Steel Measuring tape of accuracy class II with a maximum length of 3 metre and width of 13 millimetre. The graduation is at every 1 millimetre.



Further, in exercise of the powers conferred by sub-section (12) of said section the Central Government hereby declares that this certificate of approval of the Model shall also cover all Steel tape measures length upto 5 metre of similar make accuracy and performance and same series manufactured by the same manufacturer with the same principle, design and in accordance with the same materials with which, the approved Model has been manufactured.

[F. No. W.M.-21(90)/99]

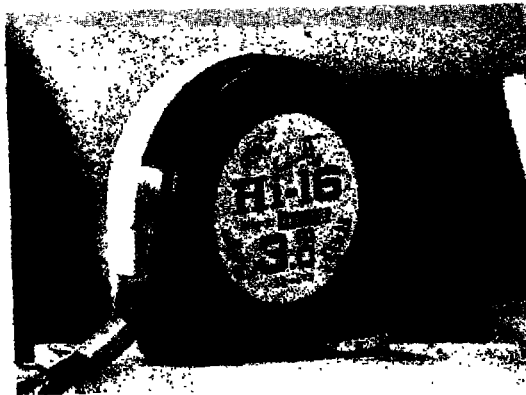
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2778.— केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्रीमेन्ज मेजरिंग लिमिटेड, समीप भारचा ओर्काडस, डाकघर जुगियाना, जी. टी. रोड, साहेवाल, पंजाब, लुधियाना-141120 द्वारा विनिर्मित यथार्थता वर्ग II वाली "एच आई" श्रृंखला की स्टील टेप माइजर के माडल का जिसके ब्रांड का नाम "जी के" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/00/189 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है,

यह माडल (आकृति देखें) यथार्थता वर्ग II की स्टील मेजरिंग टेप है और जिसकी अधिकतम लम्बाई 5 मीटर और चौड़ाई 16 मि. मी. या 19 मि. मी. या 25 मि.मी. है। इसमें प्रत्येक 1 मिली मीटर पर परिवर्तनीय चौड़ाई के साथ अंशांकन है। इसे माप करने के लिए वहां उपयोग किया जाता है जहां स्थिर लम्बाई माप सुविधाजनक या व्यावहारिक नहीं है और इसका परिशुद्ध सर्वेक्षण और वर्ग II यथार्थता के साधारण मापनों के लिए भी उपयोग किया जा सकता है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाली ऐसी सभी स्टील टेप माइजरस भी होंगे जिनकी लम्बाई 5 मीटर तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है।

[फ़. सं. डब्ल्यू. एम.-21(90)/99]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2770.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render its accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Steel tape measure of 'HI' series of accuracy class II and with brand name "GK" (hereinafter referred to as the model) manufactured by M/s. Freemans Measuring Limited, Near Garcha Orchards, P.O. Jugiana G.T. Road, Sahenwal Ludhiana-141 120 Punjab which is assigned the approval mark IND/09/00/189;

The Model (see figure) is a Steel Measuring tape of accuracy class II with a maximum length of 5 metre and width 16 millimetre, 19 millimetre or 25 millimetre. The graduation is at every 1 millimetre. It is used for measurement where the use of rigid length measure is not convenient or practicable and can also be used to measure precise surveying and general measurements of accuracy class II.



Further, in exercise of the powers conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover all Steel tape measures length upto 8 metre of similar make accuracy and performance and same series manufactured by the same manufacturer with the same principle, design and in accordance with the same materials with which, the approved Model has been manufactured.

[F No. W.M.-21(90)/99]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2000

का. आ. 2779.— केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्रीमेन्ज मेजरिंग लिमिटेड, समीप भारचा ओर्काडस, डाकघर जुगियाना, जी. टी. रोड, साहेवाल, पंजाब, लुधियाना-141120 द्वारा विनिर्मित यथार्थता वर्ग II वाले "ट्रिपलेक्स टी एफ" श्रृंखला के स्टील टेप मइजर के माडल का जिसके ब्रांड का नाम "जी के" है (जिसे इसमें इसके पश्चात् माडल कहा गया है और जिसे अनुमोदन चिह्न आई एन डी/09/00/190 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल (आकृति देखें) यथार्थता वर्ग II की स्टील मेजरिंग टेप है और इसकी अधिकतम लम्बाई 3 मीटर और चौड़ाई 9.5 मि. मी. है। इसमें प्रत्येक 1 मिली मीटर पर अंशांकन है। इसे माप करने के लिए वहां उपयोग किया जाता है जहां स्थिर लम्बाई माप सुविधाजनक या व्यावहारिक नहीं है और इसे परिशुद्ध सर्वेक्षणों और वर्ग II यथार्थता के साधारण मापनों के लिए भी उपयोग किया जा सकता है।



और, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाली ऐसी सभी स्टील टेप माइजर्स भी होंगी जिनकी लम्बाई 3 मीटर तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है।

[फन. सं. डब्ल्यू. एम.-21(90)/99]

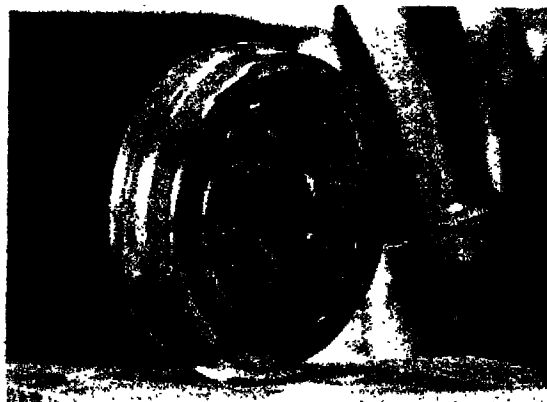
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2000

S. O. 2779.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render its accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Steel tape measure 'Triplex-TF' series of accuracy class II and with brand name "GK" (herein referred to as the model) manufactured by M/s. Freemans Measuring Limited, Near Garcha Orchards, P.O. Jugiana G.T. Road, Sahenwal Ludhiana-141 120 Punjab which is assigned the approval mark IND/09/00/190;

The Model (see figure) is Steel Measuring tape of accuracy class II with a maximum length of 3 metre and width 9.5 millimetre. The graduation is at every 1 millimetre. It is used for measurement where the use of rigid length measure is not convenient or practicable and can also be used to measure precise surveying and general measurements of accuracy class II



Further, in exercise of the powers conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover all Steel tape measures length upto 3 metre of similar make accuracy and performance and same series manufactured by the same manufacturer with the same principle, design and in accordance with the same materials with which, the approved Model has been manufactured.

[F. No. W.M.-21(90)/99]

P. A. KRISHNAMOORTHY, Director, Legal Metrology.

श्रम मंत्रालय

नई दिल्ली, 20 नवम्बर, 2000

का. आ. 2780.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2000 को प्राप्त हुआ था।

[सं. एल-12011/62/97-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 20th November, 2000

S.O. 2780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner and Jaipur and their workman, which was received by the Central Government on 20-11-2000.

[No. L-12011/62/97-IR(B-I)]
AJAY KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

प्रकरण संख्या :—सी. जी. आई. टी./बी-32/98

आदेश संख्या :—एल-12011/62/97-आई. आर. (बी-1)
28-8-98

महामंत्री अखिल भारतीय स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर कर्मचारी संघ, पटेल कॉलोनी, गर्वनमेंट प्रेस के सामने, सरदार पटेल मार्ग, सी-स्कीम, जयपुर-302001 (राजस्थान)
—प्रार्थी यूनियन

बनाम

प्रबन्ध निदेशक,
स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर,
प्रधान कार्यालय, तिलक मार्ग,
जयपुर (राजस्थान)

—अप्रार्थी

उपस्थित :—

प्रार्थी की ओर से श्री आर. पी. पुरोहित
अप्रार्थी की ओर से श्री संजीव माथुर
पंचाट दिनांक 25-10-2000

पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम 1947 कहा गया है) की धारा 10 की उपधारा (1) के खण्ड (घ) के प्रावधानों के अन्तर्गत आदेश क्रमांक एल-12011/

3354 GI/2000—7

62/97-आई. आर. (बी-1), दिनांक 28-8-98 के जरिये न्याय निर्णयन हेतु निर्देशित किया गया :—

“Whether the action of the management of State Bank of Bikaner & Jaipur, Jaipur is justified in payment of Special Allowance of Rs. 410 to junior workman Shri B. D. Agarwal, computerised Telex Machine Operator w.e.f. 1-4-1997 and paying Rs. 174 per month as Special Allowance to senior workmen Shri K. C. Choudhary and Shri S. K. Rathore, Telex Machine Operators etc.? If not what relief the senior workmen are entitled to?”

अखिल भारतीय स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर कर्मचारी संघ (जिसे बाद में संघ कहा गया है।) की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि संघ एक पंजीकृत व्यावसायिक कर्मचारी संघ है जो भारतीय मजदूर संघ एवं एन. ओ.बी. डब्ल्यू से सम्बद्ध है तथा अप्रार्थी संस्थान में नियोजित अधिकांश कर्मचारियों का प्रतिनिधित्व करता है, जिनकी ओर से विवाद प्रस्तुत करने हेतु पूर्णतया सक्षम एवं अधिकृत है। एस. के. राठौड़ संघ के संरक्षक है एवं सक्रिय कार्यकर्ता हैं व के. सी. चौधरी भी संगठन के सक्रिय कार्यकर्ता है। एस. के. राठौड़ एवं के. सी. चौधरी की व्यवसाय संघ गतिविधियों पर अंकुश लगाने एवं उन्हें परेशान करने के उद्देश्य से दोनों ही पदाधिकारियों की वरिष्ठता को अनदेखा कर दोनों पदाधिकारियों से कनिष्ठ कर्मचारी बी. डी. अग्रवाल को कम्प्यूटराइज्ड टेलेक्स ऑपरेटर का भत्ता रुपये 410/- प्रतिमाह दिनांक 1-4-97 से देना प्रारम्भ कर दिया जबकि राठौड़ व चौधरी को अग्रवाल से वरिष्ठ होने के बावजूद मजदूरी 174/- रुपये प्रतिमाह भत्ता दिया गया जो कि अवैध एवं अनुचित है व अनुचित श्रम अभ्यास की श्रेणी में आता है। बी. डी. अग्रवाल संघ के विरोधी संगठन के सदस्य है एवं अप्रार्थी ने योग्यता का ध्यान रखे बिना बी. डी. अग्रवाल को विशेष समूह का होने के कारण पक्ष लिया है एवं पक्षपात किया है। प्रार्थना की गई कि उक्त भेदभाव पूर्ण नीति को अनुचित श्रम अभ्यास घोषित किया जाए तथा अप्रार्थी को निर्देश दिया जाए कि राठौड़ व चौधरी को उनके वरिष्ठ होने के कारण दिनांक 1-4-97 से 410/- रुपये प्रतिमाह की दर से कम्प्यूटराइज्ड टेलेक्स मशीन ऑपरेटर का भत्ता दिया जाए। राठौड़ व चौधरी को इस दौरान मानसिक प्रताड़ना एवं तनाव झेलना पड़ा है, अतः हर्जा-खर्चा भी दिलाया जाये।

अप्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम का जवाब प्रस्तुत किया गया, जिसके खण्ड-3 में आपत्ति की गई कि प्रबन्ध निदेशक, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का बैंक से कोई पृथक कानूनी अस्तित्व नहीं है। स्टेट बैंक ऑफ इण्डिया (सबसिडियरी बैंक्स) अधिनियम, 1959 की धारा-4 के अनुसार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर (जिसे बाद में बैंक कहा गया है) अपना कानूनी अस्तित्व रखती है व कोई वाद या विवाद सीधे बैंक के विरुद्ध प्रस्तुत किए जा सकते हैं, किसी अधिकारी के विरुद्ध नहीं, अतः क्लेम इस कारण खारिज किए जाने योग्य है।

खण्ड संख्या-4 में आपत्ति की गई कि विवाद में मांगपत्र संबंधित कर्मचारियों के द्वारा प्रस्तुत नहीं किया गया व संघ के महामंत्री द्वारा संबंधित कर्मचारियों को पक्षकार बनाये बिना क्लेम चलने योग्य नहीं है। कम्प्यूटराइज्ड टेलेक्स मशीन ऑपरेटर का कार्य करने वाले को विशेष भत्ता दिलाये जाने के बारे में उल्लेख किया गया है कि इसमें वरिष्ठ एवं कनिष्ठ का बिंदु निहित नहीं है। यह भी उल्लेख किया गया कि प्राथी ने अपने मांगपत्र में यह स्पष्ट नहीं किया कि के. सी. चौधरी व एस. के. राठौड़ को बैंक नियमों व प्रक्रिया के अनुसार नियत तिथि पर योग्यता रखने के पश्चात् भी उन्हें विशेष भत्ता कम्प्यूटराइज्ड टेलेक्स मशीन का नहीं दिया गया। यह भी उल्लेख किया गया कि एस. के. राठौड़ दिनांक 1-12-97 से अधिकारी के पद पर पदोन्नत हो चुके हैं। एस. के. राठौड़ व के. सी. चौधरी यदि तथ्यकथित किसी लाभ से वंचित होते तो वे विवाद तुरंत दायर करते न कि इतनी देरी से। कम्प्यूटराइज्ड टेलेक्स मशीन ऑपरेटर का विशेष भत्ता बैंक द्वारा जारी परिपत्र प्रदर्श एम-1 के द्वारा दिया गया है। बी. डी. अग्रवाल बैंक द्वारा जारी परिपत्रों के अनुसार योग्यता प्राप्त करने पर ही विशेष भत्ता पाते हैं। प्राथी के इस आरोप को कि राठौड़ व चौधरी के व्यवसाय संघ की गतिविधियों पर अंकुश लगाने व परेशान करने के उद्देश्य से दोनों ही पदाधिकारियों की वरिष्ठता को बदलकर अनदेखा कर दोनों ही पदाधिकारियों से कनिष्ठ कर्मचारी को विशेष भत्ता दिया गया को गलत बताया।

प्राथी की ओर से जवाब का प्रत्युत्तर प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि एस. के. राठौड़ व के. सी. चौधरी बैंक नियमों एवं प्रक्रिया के अनुसार वांछित योग्यता रखते थे।

पक्षकारों के अभिकथनों के आधार पर निम्नांकित विवाद बिंदु बनाये गये :—

- (1) आया जवाब आप्रार्थी प्रारम्भिक आपत्ति में दर्ज खण्ड संख्या 3 व 4 के कारणों से प्राथी क्लेम खारिज किये जाने योग्य है ?
- (2) आया श्री बी. डी. अग्रवाल प्राथी संघ के विरोधी संघ का सदस्य है एवं उसे आप्रार्थी ने बिना योग्यता के तथा पक्षपातपूर्ण तरीके से कम्प्यूटराइज्ड टेलेक्स ऑपरेटर का विशेष भत्ता दिया है ?
- (3) आया आप्रार्थी ने श्री राठौड़ व चौधरी की व्यवसाय संघ की गतिविधियों पर अंकुश लगाने एवं परेशान करने के उद्देश्य से उनकी वरिष्ठता को अनदेखा कर श्री बी. डी. अग्रवाल को कम्प्यूटराइज्ड टेलेक्स ऑपरेटर का भत्ता दिया है ?
- (4) आया प्राथी किस सहायता को प्राप्त करने का अधिकारी है ?

प्राथी संघ की ओर से श्री आर. पी. पुरोहित व के. सी. चौधरी व एस. के. राठौड़ के शपथपत्र प्रस्तुत किये गये, जिन पर प्रतिपरीक्षा करने का अवसर आप्रार्थी के प्रतिनिधि को दिया गया। प्राथी की ओर से द्वितीय समझौते की प्रतिलिपि व बैंक के प्रधान कार्यालय के परिपत्र दिनांक 23-7-1988 व पत्र दिनांक 27-5-1986 की प्रतिलिपि प्रस्तुत की गई। आप्रार्थी की ओर से सतीश कुमार अजमेरा का शपथपत्र प्रस्तुत किया गया, जिस पर प्राथी के प्रतिनिधि को प्रतिपरीक्षा करने का अवसर दिया गया। आप्रार्थी की ओर से सहायक महाप्रबन्धक के पत्र की प्रतिलिपि व ऑल इण्डिया एस. बी. बी. जे. एम्पलाईज कार्डिनेशन कमेटी व बैंक प्रबन्धन के बीच हुई मिटिंग के मिनट्स प्रस्तुत किये गये।

बहस सुनी गई एवं पत्रावली का अवलोकन किया गया।

बिंदु संख्या 1 :—इस बारे में कोई विवाद नहीं है कि स्टेट बैंक ऑफ इण्डिया (सबजोडियरी बैंक) अधिनियम, 1959 के अनुसार बैंक अपना कानूनी अस्तित्व रखती है, जिसके विरुद्ध वाद प्रस्तुत किया जा सकता है, परन्तु अधिनियम 1947 औद्योगिक विवाद के निस्तारण के बारे में एक विशेष अधिनियम है, जिसके प्रावधान इस विषय में लागू होंगे कि उक्त अधिनियम के प्रयोजनार्थ “नियोजक कौन है” ? आप्रार्थी के विद्वान प्रतिनिधि का यह तर्क नहीं है कि अधिनियम 1947 के प्रावधानों के अन्तर्गत नियोजक की दी गई परिभाषा के अनुसार आप्रार्थी “नियोजक” की परिभाषा के अन्तर्गत नहीं आता।

इस बारे में कोई विवाद नहीं है कि क्लेम संघ की ओर से उनके महामंत्री के द्वारा प्रस्तुत किया गया है। इस बारे में भी कोई विवाद नहीं है कि के. सी. चौधरी व एस. के. राठौड़ जिन्हें कम्प्यूटराइज्ड टेलेक्स मशीन ऑपरेटर का भत्ता न दिये जाने के बारे में विवाद उठाया गया है, उन्हें क्लेम में पक्षकार नहीं बनाया गया है व न कोई संघ की ओर से लिखित में संघ को उक्त विषय के बारे में विवाद उठाने के बारे में अधिकार पत्र प्रस्तुत किया गया। श्री आर. पी. पुरोहित का कथन है कि के. सी. चौधरी व एस. के. राठौड़ संघ के सदस्य थे व उन्होंने विवाद प्रस्तुत करने के बारे में मौखिक कहा था। आप्रार्थी की ओर से एस. के. राठौड़ व के. सी. चौधरी के संघ के सदस्य होने के खण्डन में कोई साक्ष्य प्रस्तुत नहीं की गई। ऐसी परिस्थितियों में उनका संघ का सदस्य होना प्रमाणित है व उनकी ओर से लिखित में अधिकारपत्र न देने के आधार पर भी उनके हितों पर प्रतिकूल प्रभाव पड़ने से उत्पन्न विवाद के बारे में यूनिन को विवाद उठाने के बारे में अधिकार है। अतः एस. के. राठौड़ व के. सी. चौधरी को क्लेम में पक्षकार बनाया जाना आवश्यक प्रतीत नहीं होता व उक्त कारण से क्लेम खारिज होने योग्य नहीं है।

बिन्दु संख्या:— 2 व 3 इस बारे में कोई विवाद नहीं है कि के. सी. चौधरी व एस. के. राठौड़ विपक्षी संस्थान में नियुक्ति के आधार पर बी. डी. अग्रवाल से वरिष्ठ है। इस बारे में भी कोई विवाद नहीं है कि के. सी. चौधरी व एस. के. राठौड़ संघ के सदस्य हैं व बी. डी. अग्रवाल किसी दूसरे संघ के सदस्य हैं। इस बारे में भी कोई विवाद नहीं है कि बी. डी. अग्रवाल को बाईपाटाईट मीटिंग जो कि ऑल इण्डिया एस. बी. वी. जे. एम्पलाईज काडिनेशन कमेटी व अप्रार्थी बैंक के प्रबन्धकों के बीच 12-13 मार्च, 1997 को हुई, जिसमें इस बारे में सहमति हुई, कि कम्प्यूटर ऑपरेटर एलाउन्स का भुगतान ऐसे टेलिक्स्ट ऑपरेटरों को दिया जाए जो कि किसी टेलिक्स्ट मशीन पर 1-4-97 से कार्य कर रहे थे, कम्प्यूटराईज्ड टेलिक्स्ट ऑपरेटर के लिए विशेष भत्ता 410/- रुपये प्रति-माह दिनांक 1-4-97 से दिया गया।

संघ की ओर से श्री आर. पी. पुरोहित का कथन है कि संघ अप्रार्थी संस्थान में नियोजित अधिकांश कर्मचारियों का प्रतिनिधित्व करता है। प्रतिपरीक्षा में उसका कथन है कि संघ के सदस्यों की संख्या 350 है व बैंक में कुल कर्मचारियों की संख्या लगभग 11,000 है। अतः यह नहीं कहा जा सकता कि संघ अप्रार्थी संस्थान में नियोजित अधिकांश कर्मचारियों का प्रतिनिधित्व करता है व इस बारे में संघ की ओर से उक्त कथन गलत किया गया है। क्लेम के खण्ड संख्या-4 में उल्लेख किया गया है कि अप्रार्थी ने योग्यता का ध्यान रखे बिना पक्षपात पूर्ण तरीके से कम्प्यूटराईज्ड टेलिक्स्ट ऑपरेटर का विशेष भत्ता दिया है। इस बारे में कोई विवाद नहीं है कि टेलिप्रिन्टर ऑपरेटर के पद हेतु अप्रार्थी बैंक के मुख्य कार्यालय के परिपत्र दिनांक 27-5-1986 के अनुसार उक्त पद पर चयन का आधार वरिष्ठता एवं उपयुक्तता है। उक्त परिपत्र के द्वारा ऐसे स्थाई कर्क एवं टंककों से आवेदन आमन्त्रित किये गये हैं जो टंकण के बारे में अच्छी जानकारी रखते हों व उक्त पद पर कार्य करने के इच्छुक हों। इस बारे में कोई विवाद नहीं है कि के. सी. चौधरी व एस. के. राठौड़ दिनांक 1-4-97 से पूर्व टेलिक्स्ट ऑपरेटर का कार्य करते थे। इस बारे में भी कोई विवाद नहीं है कि बी. डी. अग्रवाल को कम्प्यूटराईज्ड टेलिक्स्ट ऑपरेटर का भत्ता बैंक के परिपत्र दिनांक 5-4-97 प्रदर्श एम-1 के अनुसार जो कि बाईपाटाईट सैटलमेंट के आधार पर जारी किया गया है, के अनुसार कम्प्यूटराईज्ड टेलिक्स्ट मशीन पर दिनांक 1-4-97 से कार्य करने के कारण दिया गया था। ऐसी कोई साक्ष्य दोनों पक्षों की ओर से प्रस्तुत नहीं की गई कि कम्प्यूटराईज्ड टेलिक्स्ट मशीन पर कार्य करने के लिए विशेष योग्यता की आवश्यकता थी जो बी. डी. अग्रवाल में नहीं थी व एस. के. राठौड़ व के. सी. चौधरी में थी अथवा बी. डी. अग्रवाल में थी व राठौड़ व चौधरी में नहीं थी। संघ के विद्वान प्रतिनिधि के द्वारा तर्क दिया गया है कि कम्प्यूटराईज्ड टेलिक्स्ट मशीन ऑपरेटर का विशेष भत्ता वरिष्ठता के आधार पर के. सी. चौधरी व एस. के.

राठौड़ को दिया जाना चाहिए था व इस संदर्भ में उन्होंने बैंक के परिपत्र दिनांक 27-5-1986 की ओर ध्यान आकृष्ट किया है, जो कि टेलिप्रिन्टर ऑपरेटर के चयन के बारे में है। उक्त परिपत्र में कम्प्यूटराईज्ड टेलिक्स्ट मशीन ऑपरेटर के चयन के बारे में कोई उल्लेख नहीं है। उन्होंने द्वि-क्षीय समझौते के पैरा 5.5 पर भी जोर दिया है, जो कि निम्न प्रकार है:—

“5.5 देसाई पंचाट के पैरा 5.287 के अतिक्रमण में जहां कोई कर्मकार एक से अधिक श्रेणियों में आता है, वह उसे लागू उच्चतम दर पर विशेष भत्ता पाने का हकदार होगा, फिर भी किसी अन्य विशेष भत्ते, जिसे पाने का वह हकदार है, के अतिरिक्त, शैक्षणिक अर्हताओं के लिए विशेष भत्ता/भत्ते, यदि कोई हो, वह भी उसे देय होगा/होंगे।” मेरी राय में द्वितीय समझौते के उक्त प्रावधान से प्राथी को कोई सहायता नहीं मिलती, क्योंकि प्राथी का ऐसा कथन नहीं है कि के. सी. चौधरी व एस. के. राठौड़ ऐसी श्रेणी में आते थे, जिससे कि वे एक से अधिक विशेष भत्ता पाने के अधिकारी थे। कम्प्यूटराईज्ड टेलिक्स्ट ऑपरेटर का भत्ता वे तभी प्राप्त कर सकते थे जब कि वे उक्त पद पर कार्य करते। प्राथी के विद्वान प्रतिनिधि ने बैंक के प्रधान कार्यालय के परिपत्र दिनांक 23-7-88 की ओर भी ध्यान आकर्षित किया है, जिसमें यह उल्लेख है कि:—

- (a) When a member of the supervising staff proceeds on leave his work should be allocated amongst the remaining supervising officials. However, at branches where only two members of the supervising staff are posted, when either of them proceeds on leave thus leaving only one member of the supervising staff at the branch, the duties of Special Assistant may be entrusted temporarily by the Branch Manager/Departmental Head after obtaining the prior approval of their Controlling Authority to the senior-most employee if he is considered suitable at the branch/department.
- (b) When a permanent Spl. Asst./Head Clerk, etc. Proceeds on leave, it is not obligatory to entrust the special allowance carrying duties to the senior-most employee. The Checking duties performed by these employees should, in such cases, be taken care of by the member/s of the existing Supervising Staff. If, for some reason, this is not possible such duties may be assigned to the senior-most employee, if absolutely necessary after obtaining prior approval from the Controlling Authority.

उक्त परिपत्र अर्वाइड स्टाफ के द्वारा किये जाने वाले ऐसे कार्यों, जिनके लिये विशेष भत्ता दिया जाता है, को अस्थायी रूप से वरिष्ठतम कर्मचारियों को यदि वे उपयुक्त हैं;

सुपुर्द करने के बारे में है। कम्प्यूटराईज्ड टेलिक्स्ट ऑपरेटर का विशेष भत्ता अस्थायी रूप से बी. डी. अग्रवाल को दिया गया, ऐसा संघ का कथन नहीं है व उक्त परिपत्र सुसंगत प्रतीत नहीं होता। संघ के विद्वान प्रतिनिधि का यह भी तर्क है कि के. सी. चौधरी को बाय इंडोर उन्हें संगठन छोड़ना पड़ा व विरोधी संघ की सहायता ग्रहण करने के तत्काल बाद उन्हें कम्प्यूटर ऑपरेटर का भत्ता शुरू कर दिया गया। ऐसा कथन स्टेटमेंट ऑफ क्लेम में

संघ की ओर से नहीं किया गया है, अतः उक्त तर्क पर विचार नहीं किया जा सकता। संघ की ओर से श्री आर पी. पुरोहित ने स्वीकार किया है कि दिनांक 1-4-97 को के. सी. चौधरी व एस. के. राठौड़ साधारण टेलिक्स मशीन पर कार्य नहीं कर रहे थे, जब कि कम्प्यूटराईज्ड टेलिक्स मशीन चालू हो गई। के. सी. चौधरी ने स्वीकार किया है कि सन् 1991 में ही साधारण टेलिक्स मशीन जिस पर वे कार्य कर रहे थे सैरेंडर हो गई थी व उसके बाद उसने उक्त मशीन पर कार्य नहीं किया व जब 1997 में कम्प्यूटराईज्ड टेलिक्स मशीन लगी तब वह क्लेरीकल कार्य कर रहा था। एस. के. राठौड़ का कथन है कि वह कलेक्ट्रे ब्रान्च, जयपुर में टेलिक्स ऑपरेटर का कार्य कर रहा था जहां मशीन खराब थी। इस प्रकार यह प्रमाणित है कि के. सी. चौधरी व एस. के. राठौड़ दोनों ही दिनांक 1-4-97 के पूर्व कई वर्षों से साधारण टेलिक्स मशीन पर कार्य नहीं कर रहे थे व टेलिक्स ऑपरेटर का भत्ता 174-रुपये प्रतिमाह प्राप्त कर रहे थे। उन्होंने यह भी स्वीकार किया है कि उन्होंने इस बारे में कोई कभी बैंक को लिखकर नहीं दिया कि उन्हें कम्प्यूटराईज्ड टेलिक्स मशीन ऑपरेटर का कार्य दिया जाए, जिससे ऐसा प्रकट होता है कि वे कम्प्यूटराईज्ड टेलिक्स मशीन पर कार्य करने के इच्छुक नहीं थे। यदि वे उक्त मशीन पर कार्य करने के इच्छुक होते तो कोई कारण प्रतीत नहीं होता कि वे इस बारे में अपना प्रतिवेदन बैंक को न देते। उनके इस आचरण से तो ऐसा प्रकट होता है कि वे कम्प्यूटराईज्ड टेलिक्स ऑपरेटर का कार्य न करते हुए कम्प्यूटराईज्ड टेलिक्स ऑपरेटर का विशेष भत्ता प्राप्त करने की इच्छा रखते थे। यह भी उल्लेख करना उचित होगा कि एस. के. राठौड़ ने स्वीकार किया है कि जिस शाखा में वह कार्य करता था वहां कम्प्यूटराईज्ड टेलिक्स मशीन कभी नहीं लगी। उक्त शाखा में यदि कम्प्यूटराईज्ड टेलिक्स मशीन लगी होती व उससे किसी कनिष्ठ व्यक्ति को उक्त मशीन पर कार्य किये जाने हेतु पदस्थापित किया जाता तो बैंक के उक्त कृत्य से वह व्यथित हो सकता था। उक्त शाखा में कम्प्यूटराईज्ड टेलिक्स मशीन न लगने पर व उक्त मशीन पर कार्य न करते हुए उक्त कार्य के लिये विशेष भत्ता की मांग किया जाना तर्कसंगत प्रतीत नहीं होता। यद्यपि बैंक के द्वारा कम्प्यूटराईज्ड टेलिक्स मशीन पर कार्य करने पर विशेष भत्ता दिये जाने के बारे में जो प्रक्रिया अपनाई गई उसमें कोई चयन की प्रक्रिया का उल्लेख नहीं है, परन्तु केवल इस कारण से यह निष्कर्ष नहीं निकाला जा सकता कि उक्त प्रावधान संघ की गतिविधियों पर अंकुश लगाने व परेशान करने के उद्देश्य से व पक्षपात पूर्ण तरीके से किया गया। बैंक से यह अपेक्षा की जाती है कि उक्त पद हेतु स्पष्ट नीति अपनाये जिससे कि कर्मचारियों में अनावश्यक असन्तोष व विवाद उत्पन्न न हो व बैंक एवं कर्मचारियों के बीच सौहार्दपूर्ण वातावरण बना रहे।

बिन्दु संख्या 4 :—उक्त विवेचन के आधार पर बी. डी. अग्रवाल को कम्प्यूटराईज्ड टेलिक्स मशीन ऑपरेटर का

विशेष भत्ता दिया जाना अनुचित प्रतीत नहीं होता व के. सी. चौधरी व एस. के. राठौड़ कोई सहायता प्राप्त करने के अधिकारी नहीं हैं।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाये।

ह./-

पीठासीन अधिकारी

नई दिल्ली, 20 नवम्बर, 2000

का. आ. 2781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, स्टेट बैंक ऑफ इण्डिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण / श्रम न्यायालय विशाखापत्तनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2000 को प्राप्त हुआ था।

[सं. एल-12012/157/98-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th November, 2000

S.O. 2781.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal/Labour Court, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 20-11-2000.

[No. L-12012/157/98-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT:

Sri K. Veerapu Naidu, B.Sc., B.L.,
Chairman and Presiding Officer.

Dated: 13th day of October, 2000

I.T.I.D. (C) 3/99

Reference No. L-12012/157/98-IR(B-I) Dated: 08-01-1999

BETWEEN

Visvanatha Behara,
S/o Raghunadha Behara,
New Street,
Palasa,
Srikakulam Dist.

.. Workman

AND

The Asst. General Manager,
State Bank of India,
Zonal Office Region-II,
APSRTC Complex Buildings,
Visakhapatnam.

.. Management

This dispute coming on for final hearing before me in the presence of Sri K. Krishna Rao, advocate for workman and Sri M. Ramdas, advocate for management, upon hearing the

arguments of both sides and on perusing the entire material on record, the court passed the following:

AWARD

(1) This is a reference made by the Central Government under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication of the following industrial dispute:

"Whether the action of the Management of State Bank of India, Zonal Office, Visakhapatnam in terminating the services of Sri V. Benara, Ex. Messenger, State Bank of India, Palasa Branch with effect from 1-8-91 is legal and justified? If not, to what relief the workman concerned is entitled?"

(2) The case of the workman is that he was appointed as a messenger in the State Bank of India, Palasa Branch, Srikakulam Dist. on 1-10-88 and continued till March, 1989 without any break and again he was appointed in the bank from 1-4-91 to July, 1991 for a period of 132 days and he was removed from service for no fault of him. He approached the management for reinstatement and also made a written representation on 8-10-91 to the Asst. Commissioner of Labour and a reply dated 12-12-97 was received. It is also his further case that as per the bipartite settlement dated 27-10-90, 9-1-91 and the circular No. PER/IR-II/91 dated 26-4-91 and the eligibility criteria for 'category-C' is that those who have completed a minimum of 30 days aggregate temporary service in any calendar year after 1-7-75 or a minimum of 10 days aggregate temporary service in any continuous block of 36 calendar months during the period 1-7-75 to 31-7-88 is considered as permanent appointment and the said eligibility criteria is extended from 31-7-88 to 14-8-91 by the management vide circular No. PER-52 dated 31-7-91. The workman worked for a period of 132 days during the period from 1-10-88 to March, 1989 and again from 1-4-91 to July, 1991. Therefore, he should be considered for a permanent appointment on the rolls of the Bank. Instead of he is deprived of his employment w.e.f. 1-8-91. Hence the claim.

(3) The management disputed the services of the petitioner for 132 days as Messenger from 1-10-88 to March, 1989 and from 1-4-91 to July, 1991. It is pleaded that the workman worked for a period of 132 days between October, 1988 to July, 1991 as a temporary employee on the scale wages and therefore he is not eligible for claiming employment on permanent basis in terms of the settlement and the circular pleaded by the workman. The workman did not work 240 days in a calendar year in a regular vacancy. Therefore, he did not fulfil the statutory requirement of working in regular employment for 240 days and as such he is not covered under Section 25B of the I.D. Act. It is also the further case of the management that the ex-temporary employees in the panels filed writ petitions before the Hon'ble High Court of A.P. and the same were allowed by the Single Judge of the High Court. Against which an appeal was preferred to the Division Bench of the Hon'ble High Court and the writ appeal was allowed and the employees preferred SLP No. 11886-11888 of 1998 before the Supreme Court of India and the same was dismissed. The management also draws the attention of this Court in its counter to a decision reported in 1997 LAB-IC 2075 between Himanshu Kumar Vidyarthi Vs. State of Bihar (Supreme Court) and the said decision squarely applies to the workman in this case. Therefore, the workman is not entitled to claim any reinstatement nor entitled to be considered for permanent appointment in the Bank in terms of the above bipartite settlement pleaded by him.

(4) Before this Tribunal on behalf of the workman, the workman is examined as WW1 and Exs. W1 to W12 are marked and on behalf of the management the Manager (Personnel Wing) of SBI Region-II, Zonal Office, Visakhapatnam is examined as MW1 and got marked Exs. MW to M8.

(5) Heard both sides.

(6) The points that arises for consideration is:

"Whether the action of the management in terminating the services of the workman as Ex. Messenger, State Bank of India, Palasa Branch w.e.f. 1990 is justified? If not to what relief the workman is entitled?"

(7) The case of the workman is that he worked 132 days as temporary messenger from 1-10-88 to March, 1989 and from 1-4-91 to July, 1991 and his services were not taken thereafter and he was removed and that by virtue of the settlement arrived on 9-1-91 between the workmen Federation and the management under W9 which corresponds to Ex. W5 and Ex. W10 and a circular was also issued in pursuance of the said settlement for absorption of temporary employment and Ex. W8 is another circular dated 30-12-91 was also issued for absorption of temporary employees basing on Ex. W6 to W8 the petitioner is to be absorbed on regular basis. On behalf of the management Exs. M2 to M6 are marked and they are dated 17-11-87, 16-7-88, 27-10-88 and 9-1-91 and Ex. M7 is another settlement dated 30th July, 1996. The relevant settlement on which the workman relies on is Ex. M5 which corresponds to Ex. W9. As per this circular, the category of Messenger and non-messengers were mentioned as temporary employees and will be included in the panels and whose panels will be used for filling existing vacancies and/or those which may arise upto December, 1994. As per the said settlement, Panels of daily wagers were prepared for filling vacancies. It is the further case of the management that the panels were prepared and that the present workman is not entitled to the permanent post as he does not fulfil the requirements mentioned in the settlement. It is also in the evidence of MW1 that another settlement arrived at on 30-7-96 and the same was marked as Ex. M7 and as per Ex. M8, the memo of understanding and that in terms therein Under Clause D i.e. in terms of the settlement dated 30-7-96 both the panels of temporary employees and daily wagers/casual employee will lapse on 31-3-97. Therefore, the case of the petitioner's claim in this case cannot be considered. It is also the evidence of MW1 that still some more eligible candidates are left over even after filling up of the posts of 365 and the available posts as per the settlements Ex. M7 and M8. It is suggested to this witnesses that this present workman was purposefully avoided to be taken into service. There is no basis for the said suggestion and the workman failed to show that some others who are ineligible or unqualified or inferior candidates to him from the temporary employees have been preferred over the present workman in filling the 365 posts and the available posts. Therefore, under the circumstances as rightly contended by the management that the claim of the present workman cannot be considered.

(8) The learned counsel appearing for the workman placed reliance on a decision reported in 1999(5) ALD 92 (DB) between General Manager, State Bank of Hyderabad. Vs. V.V. Ramulu wherein their Lordships were pleased to hold that the refusal of regularisation of the respondent wherein on the ground that he worked earlier to 1-1-82 is illegal as per circular issued by the Bank in pursuance of the earlier direction issued by the Government of India as all the temporary employees who have put in a service of 90 days after 1-1-1982 shall be regularised by empanelling him for the post. The above said decision has no application for the reason that the subsequent settlement dated 30-7-96 entered into between the management and the Staff Federation and the memo of understanding Ex. M8 dated 27-2-97 were considered nor made applicable to the respondent therein. Therefore the above said decision stands on different footing. Thus the Ex. M7 settlement and Ex. M8 memo of understanding which are later in point of time have come in the way of the present petitioner. Therefore, the above said decision has no application. Further the facts and circumstances of the present case are different. However the reference in this case is as to adjudicate upon the termination of the services of the workman is legal or not. But the workman is not questioning the same. On the other hand, the workman is claiming that he has not a right of employment in the SBI on permanent basis. As rightly contended by the learned counsel appearing for the management that the workman cannot agitate his claim or right of employment in the State Bank of India on permanent basis basing on the settlement and circulars issued by the SBI in this reference. The scope of reference is different than what is agitated by the workman. Therefore, even on that score also the workman is precluded from making any such claim of employment in this reference.

(9) Further, the learned counsel appearing for the workman contends that as per Ex. M7, the eligibility criteria category-'C' has to be considered for permanent appointment. The workman acquired the right of absorption by circular

No. PER/52 dated 31-7-91 and the annexure thereto as per para (3) for the daily wage workman who had completed required temporary service in the Bank during the period 1-10-88 to March, 1988 and from 1-4-91 to July, 1991 and the said relaxation benefit to the present workman as he had put for the requisite service on temporary basis and he worked during the extended period. It is also submitted that the State Bank of India addressed a letter to the Assistant Commissioner of Labour and the copy of which is marked to the petitioner on his application wherein it is stated that "Therefore we advise that it is not possible at present, to consider the petitioner's name for appointment in the Bank in subordinate service. From the said reply, the learned counsel appearing for the workman contends that the right of the petitioner for absorption was not negated altogether and the letter nullifies the contention of the respondent/management that they could not absorb the workman. His contention has no force because the management did not specifically state that the case of the petitioner will be considered at a later point of time not there was any assurance or implied admission to provide appointment or job in subordinate service to the workman. Therefore, I see no substance in the argument advanced by the counsel appearing for the workman. Hence I answer the reference in favour of the management and against the workman.

(10) In the result, nil award is passed. Under the circumstances of the case, there is no order as to costs and each party is directed to bear its own costs.

Dictated to steno transcribed by her given under my hand and seal of the court this the 13th day of October, 2000.

K. VEERAPU NAIDU, Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For Workman :

Viswanath Behara.

For Management :

MW1 : V. C. Mouli

DOCUMENTS MARKED

For workman : Ex. W1 : 10-4-89 : Certificate of temporary service.

Ex. W2 : 2-8-92 : Certificate of temporary service.

Ex. W3 : 13-1-98 : Representation to ALC(C) by workman.

Ex. W4 : — : Notice of ALC(C) Visakhapatnam.

Ex. W5 : 5-2-98 : Notice of ALC(C), Visakhapatnam.

Ex. W6 : 15-4-98 : Minutes of conciliation proceedings before ALC(C), Visakhapatnam.

Ex. W7 : 15-4-98 : Letter to ALC(C) Vsp., by AGM, SBI, Vsp.

Ex. W8 : — : Conciliation failure report.

Ex. W9 : 9-1-91 : Settlement dated 9-1-91 between SBI and Staff Federation.

Ex. W10 : — : Circular reg. absorption of temporary employees.

Ex. W11 : — : Circular reg. absorption of temporary employees.

Ex. W12 : 12-1-97 : Order of ALC(C) Vsp.

For Management :

Ex. M1 : Statement of State Bank of India, Palasa.

Ex. M2 : Settlement dated 17-11-87 between SBI and Staff Federation.

Ex. M3 : Settlement dated 16-7-88 between SBI and Staff Federation.

Ex. M4 : Settlement dated 27-10-88 between management and Staff Federation.

Ex. M5 : 9-1-91 : Settlement between management and Staff Federation.

Ex. M6 : 12-6-95 : Minutes of conciliation proceedings of RLC(C), Hyd.

Ex. W7 : 30-7-96 : Settlement between management and Staff Federation.

Ex. M8 : Memorandum of understanding between workmen and management.

Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam

नई दिल्ली, 20 नवम्बर, 2000

का. आ. 2782.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर बैंक के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2000 को प्राप्त हुआ था।

[सं. एल-12012/207/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th November, 2000

S.O. 2782.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mysore Bank and their workmen, which was received by the Central Government on 20-11-2000.

[No. L-12012/207/99-IR(B-I)]

AJAY KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम नियन्त्रण, जयपुर।

प्रकरण संख्या :—सी. आई. टी./जे-60/99

आदेश संख्या :—एल-12012/207/99/आई. आर. (बी-1)

30-9-99

सुरेश कुमार शर्मा पुत्र श्री दामोदर प्रसाद शर्मा निवासी गोविन्दराम जी का रास्ता, पुरानी बस्ती, जयपुर।

—प्रार्थी

वनाम

1. शाखा प्रबन्धक,

मैसूर बैंक, एम. आई. रोड, जयपुर।

2. मुख्य प्रबन्धक,

मैसूर बैंक बंगलोर, साऊथ।

उपस्थित :—

प्रार्थी की ओर से

अप्रार्थी की ओर से

पंचाट दिनांक 20-10-2000

श्री एफ. एम. बेग

श्री जे. आर. यादव

पंचाट

केन्द्रीय सरकार के द्वारा उक्त आदेश के जरिये निम्न औद्योगिक विवाद, औद्योगिक विवाद अधिनियम 1947 (जिसे बाद में अधिनियम 1947 कहा गया है) की धारा 10 की उपधारा (1) के खण्ड-डी व उपधारा 2-ए के प्रावधानों के अन्तर्गत न्याय निर्णय हेतु निर्देशित किया गया :—

“Whether the action of the management of Mysore Bank in terminating the services of Shri Suresh Kumar Sharma is legal and justified? If not to what relief the workman is entitled according to Bank rules and natural justice?”

प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि प्रार्थी की नियुक्ति दिनांक 3-8-95 को चतुर्थ श्रेणी कर्मचारी के पद पर अप्रार्थी प्रबन्धक संख्या-1 के द्वारा की गई थी। उक्त तिथि से वह अप्रार्थी संख्या-1 के अधीन निरन्तर कार्य करता रहा। दिनांक 30-6-98 को अप्रार्थी संख्या-1 ने उसकी सेवा समाप्त कर दी। सेवा समाप्ति करने से पूर्व न तो एक माह का नोटिस दिया गया न नोटिस वेतन व न छुट्टी का मुआवजा। प्रार्थी से कनिष्ठ श्रमिक अप्रार्थी के अधीन कार्यरत है, परन्तु इस तथ्य को नजर अन्दाज कर प्रार्थी की सेवा समाप्त कर दी गई। सेवा समाप्ति के समय कोई वरिष्ठता सूची नहीं बनाई गई। सेवा समाप्ति के पश्चात् प्रार्थी के स्थान पर नई नियुक्तियाँ की गई। इस प्रकार अप्रार्थी के द्वारा प्रार्थी की सेवा समाप्ति अधिनियम 1947 की धारा-25-एफ, जी एवं एच व औद्योगिक विवाद (केन्द्रीय) नियम 1957 (जिसे बाद में नियम 1957 कहा गया है) के नियम 77, 78 का उल्लंघन कर की गई। प्रार्थना की गई कि प्रार्थी का सेवा पृथक्करण का आदेश अवैध घोषित किया जाए व उसकी सेवा का निरन्तर मानते हुए सेवा में लिए जाने का आदेश दिया जाए तथा सेवा के समस्त लाभ दिलाये जायें।

अप्रार्थीगण की ओर से जबाब प्रस्तुत किया गया कि प्रार्थी से एक निश्चित अवधि के लिये पूर्णतः अस्थायी एवं आकस्मिक रूप से आवश्यकतानुसार समय-समय पर कार्य लिया था एवं जैसे ही यह निश्चित अवधि समाप्त हुई उसकी सेवायें स्वतः ही समाप्त हो गई व प्रार्थी की कोई अवैध सेवामुक्ति नहीं की गई। प्रार्थी के द्वारा किसी भी कलेंडर वर्ष में 240 दिन कार्य करने से इंकार किया गया। अधिनियम 1947 की धारा 25-एफ, जी, एच व नियम 1957 के नियम 77, 78 का उल्लंघन करने से इंकार किया गया।

पक्षकारों के अभिकथनों के आधार पर निम्नांकित विवाद बिन्दु बनाये गये।

- (1) आया निर्देश जबाब के खण्ड संख्या-2 के अनुसार “Bad in Law है” ?
- (2) आया प्रार्थी ने दिनांक 3-8-95 से दिनांक 29-6-98 तक लगातार विपक्षी संस्थान में

कार्य किया व सेवा समाप्ति से पूर्व के एक वर्ष में 240 दिन से अधिक कार्य किया ?

- (3) आया प्रार्थी को अप्रार्थी संस्थान में पूर्णतया अस्थायी रूप से आवश्यकतानुसार, निश्चित अवधि के लिये रखा गया था, जिसकी समाप्ति से उसकी सेवा स्वतः समाप्त हो गई, यदि हां तो इसका प्रभाव ?
- (4) आया अप्रार्थीगण के द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 25-एफ, जी व औद्योगिक विवाद (केन्द्रीय) नियम 1957 के नियम 77 का उल्लंघन किया गया ?
- (5) प्रार्थी किस सहायता को प्राप्त करने का अधिकारी है ?

क्लेम के समर्थन में प्रार्थी का स्वयं का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर अप्रार्थी के अधिवक्ता को दिया गया। अप्रार्थी की ओर से बी. एस. दिवाकर, शाखा प्रबन्धक, स्टेट बैंक ऑफ मैसूर का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर प्रार्थी के अधिवक्ता को दिया गया। अप्रार्थी की ओर से अपने पक्ष कथन के समर्थन में प्रार्थी का शपथ-पत्र प्रस्तुत किया गया व प्रार्थी के उपस्थिति रजिस्टर की प्रतिलिपि प्रस्तुत की। इसके अतिरिक्त हाजिरी रजिस्टर का भी अवलोकन किया गया।

वहस सुनी गई एवं पताबली का अवलोकन किया गया।

बनाये गये विवाद बिन्दुओं का विनिश्चय निम्न प्रकार किया जाता है :—

बिन्दु संख्या 1 :—जवाब के खण्ड संख्या-2 में उल्लेख किया गया है कि प्रार्थी को एक निश्चित अवधि के लिये पूर्णतः अस्थायी एवं आकस्मिक रूप से कार्य पर रखा गया व जैसे ही निश्चित अवधि समाप्त हुई प्रार्थी की सेवा स्वतः समाप्त हो गई। उक्त तथ्यों पर बिना विचार किए विवाद के बारे में निर्देश प्रेषित किया गया है, जो “Bad in law” है। प्रथम तो ऐसा कोई आदेश प्रस्तुत नहीं किया गया, जिससे प्रकट हो कि प्रार्थी को एक निश्चित अवधि के लिये कार्य पर रखा गया था। बी. एस. दिवाकर, शाखा प्रबन्धक ने भी अपने कथन में ऐसा उल्लेख नहीं किया कि प्रार्थी को किस अवधि के लिये नियुक्त किया गया था। उसका कथन है कि बैंक में कभी सांवरमल स्वामी ने व कभी प्रार्थी ने कार्य किया था। इससे यह नहीं कहा जा सकता कि प्रार्थी को एक निश्चित अवधि के लिये नियुक्त किया गया था। इसके अतिरिक्त माननीय उच्चतम न्यायालय ने ए. आई. आर. 2000 (एस. सी.) 569 नेशनल इंजिनियरिंग लि. बनाम स्टेट ऑफ राजस्थान व अन्य के मामले में यह अभिनिर्धारित किया है कि औद्योगिक अधिकरण की स्थापना अधिनियम के द्वारा की गई है व

निर्देश से उसे क्षेत्राधिकार प्राप्त होता है। अधिकरण को यह अधिकारिता नहीं है कि वह निर्देश की वैधानिकता पर विचार करें। उक्त न्याय दृष्टांत के अनुसार इस बिन्दु पर कि निर्देश विधि की दृष्टि में दृष्टित है, पर विचार भी नहीं किया जा सकता है।

बिन्दु संख्या 2 व 3:—प्रार्थी का कथन है कि उसने अप्रार्थी प्रवन्धक के अधीन दिनांक 3-8-95 से कार्य किया। दिनांक 30-6-98 को बिना किसी कारण के उसकी सेवाएँ समाप्त कर दी गई। उसने सेवामुक्ति से पूर्व 240 दिन की सेवा अवधि पूरी कर ली थी। उसने शपथ-पत्र प्रदर्श एम-1 पर अपने हस्ताक्षर होने स्वीकार किये हैं, जिसमें उल्लेख किया गया है कि उसने स्थाई "पीओन" के अवकाश पर जाने के कारण "पीओन" के पद पर कार्य किये जाने हेतु आवेदन किया, जो कि पूर्णतया अस्थायी है। उसने यह भी स्वीकार किया है कि उपस्थिति रजिस्टर की प्रतिलिपि प्रदर्श एम-2 उसके द्वारा हस्ताक्षरित है व स्टेटमेंट एम-3 के अनुसार उसने सन् 1995 में 68 दिन, सन् 1996 में 61 दिन, सन् 1997 में 174 दिन व 1998 में 94 दिन कार्य किया। एक बार तो उसने कहा कि उसने निरन्तर कार्य किया परन्तु फिर कहा कि उसने बीच-बीच में कार्य नहीं किया। दूसरी ओर बी. एस. दिवाकर का कथन है कि प्रार्थी को दिनांक 6-3-95 से अस्थायी तौर पर कार्य पर रखा गया था उसने किसी भी कलेंडर वर्ष में 240 दिन कार्य नहीं किया। प्रार्थी को एक निश्चित अवधि के लिये नियोजित किया गया था। जैसा उल्लेख किया जा चुका है कि प्रार्थी को एक निश्चित अवधि के लिए नियोजन में रखे जाने के संबंध में कोई आदेश प्रस्तुत नहीं हुआ है व न उक्त साक्षी ने ऐसा कथन किया है कि प्रार्थी को किस अवधि के लिये नियुक्त किया गया था, अतः यह नहीं कहा जा सकता कि प्रार्थी को एक निश्चित अवधि के लिये नियोजन में रखा गया था। उपस्थिति रजिस्टर से जिस पर कि प्रार्थी ने अपने हस्ताक्षर होना स्वीकार किये हैं, जिससे यह भी प्रकट होता है कि प्रार्थी को आवश्यकतानुसार अप्रार्थी संख्या-1 के अधीन चतुर्थ श्रेणी कर्मचारी के पद पर नियोजन में रखा गया। सन् 1995 में 68 दिन, सन् 1996 में 61 दिन, सन् 1997 में 174 दिन व 1998 में 84 दिन उसके द्वारा कार्य किया गया व इस प्रकार किसी भी वर्ष में प्रार्थी के द्वारा पूरे वर्ष कार्य नहीं किया गया व सेवा समाप्ति से पूर्व एक वर्ष में भी प्रार्थी के द्वारा 240 दिन कार्य नहीं किया गया। क्योंकि यह प्रमाणित नहीं हुआ है कि प्रार्थी को एक निश्चित अवधि के लिये नियुक्त किया गया था अतः यह प्रमाणित नहीं है कि प्रार्थी की सेवा स्वतः समाप्त हो गई। उक्त बिन्दु का विनिश्चय इसी प्रकार किया जाता है।

बिन्दु संख्या 4:—प्रार्थी के द्वारा सेवा समाप्ति के पूर्व के एक वर्ष में अथवा किसी भी वर्ष में लगातार कार्य करना अथवा 240 दिन कार्य करना प्रमाणित नहीं हुआ है, अतः धारा 25-एफ के प्रावधान आकृष्ट नहीं होते। प्रार्थी ने स्वीकार किया है कि "मेरे कार्य करने के दौरान कोई अन्य

अस्थायी कर्मचारी मेरी तरह कार्य नहीं कर रहा था"। अप्रार्थी के विद्वान अधिवक्ता ने मेरा ध्यान विपक्षी के साक्षी बी. एस. दिवाकर के कथन की ओर आकृष्ट किया है, जिसमें उल्लेख किया गया है कि रामकिशोर अग्रवाल को प्रार्थी की सेवा समाप्ति दिनांक 30-6-98 के पश्चात् हटाया था व उन्होंने इस संदर्भ में रामकिशोर अग्रवाल का हाजिरी रजिस्टर का अवलोकन किये जाने की प्रार्थना की। रामकिशोर अग्रवाल से संबंधित उपस्थिति रजिस्टर का अवलोकन किया गया तो यह प्रकट नहीं होता कि रामकिशोर अग्रवाल प्रार्थी की सेवा समाप्ति के दौरान दिनांक 30-6-98 को कार्यरत था। इस प्रकार यह प्रमाणित नहीं है कि प्रार्थी की सेवा समाप्ति के समय विपक्षी संस्थान में प्रार्थी के सामान कोई अन्य दैनिक वैतन भोगी चतुर्थ श्रेणी कर्मचारी के पद पर कार्यरत था व विपक्षी संस्थान के द्वारा प्रार्थी की सेवा समाप्ति "लास्ट कम फर्स्ट गो" सिद्धांत की अवहेलना कर की गई है। चूंकि प्रार्थी के सामान अन्य कोई कर्मचारी प्रार्थी के कथनानुसार विपक्षी संस्थान में कार्यरत नहीं था, अतः प्रार्थी की सेवा समाप्ति के समय नियम 1957 के नियम 77 के अन्तर्गत छंटनी किये जाने हेतु वरिष्ठता सूची बनाये जाने का प्रश्न उत्पन्न नहीं होता। इस प्रकार अधिनियम 1947 की धारा 25-जी एवं नियम 1957 के नियम 77 भी प्रार्थी की सेवा समाप्ति के मामले में आकृष्ट नहीं होते। अधिकरण का न्याय निर्णयन का क्षेत्राधिकार क्षेत्र निर्देश तक ही सीमित है, जिसके अनुसार प्रार्थी की सेवामुक्ति की वैधता के बारे में न्याय निर्णयन हेतु निर्देशित किया गया है। अधिनियम 1947 की धारा 25-एच का उल्लंघन किये जाने के बाबत निर्देश आदेश में कोई उल्लेख नहीं है अतः उक्त बिन्दु पर विचार नहीं किया जा सकता।

बिन्दु संख्या 5:—प्रार्थी की सेवा समाप्ति अवधि व अनुचित नहीं पाई जाती व इस प्रकार प्रार्थी के द्वारा जो सहायता चाही गई है, वह प्राप्त करने का अधिकारी नहीं है। अप्रार्थी को निर्देश दिया जाता है कि भविष्य में यदि किसी चतुर्थ श्रेणी कर्मचारी को दैनिक मजदूरी के आधार पर नियोजित किया जाए तो अधिनियम 1947 की धारा 25 एच. के प्रावधानों के अनुसार प्रार्थी को पुनः नियोजन का अवसर प्रदान किया जाए।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाये।

ह./-

पीठासीन अधिकारी

नई दिल्ली, 20 नवम्बर, 2000

का. आ. 2783.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण रेलवे के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2000 को प्राप्त हुआ था।

[सं. एल-41012/192/97-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th November, 2000

S.O. 2783.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 20-11-2000.

[No. L-41012/192/97-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
CHENNAI

Monday, the 30th day of October, 2000

PRESENT:

Thiru S. R. Singharavelu, B.Sc., B.L., Industrial Tribunal.

Industrial Dispute No. 75 of 1998

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Southern Railway, Madras).

BETWEEN

Sri M. K. Udayakumar,
No. 3, Kumaran Street,
Kellampalayam, Erode-2.

AND

The Divisional Railway Manager,
D.R.M.'s Office Personnel Branch,
Madras Division,
Madras-600003.

REFERENCE:

Order No. L-41012/192/97-IR(B-I) dated, 3-4-98, Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Thursday, the 28th day of September, 2000, upon perusing the reference. Claim and Counter statements and all other material papers on record and upon hearing the arguments of Tvl. D. Harinaranthaman and V. Aiykhouse advocates appearing for the Workman and of Thiru G. Kalvanasundaram, advocate appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following:

AWARD

The Government of India has referred the following issue for adjudication by this Tribunal:

"Whether the action of the management of Divisional Railway Manager, Chennai in imposing the punishment of Compulsory retirement on Mr. M. K. Udayakumar w.e.f. 28-11-94 is justified or not?"

2. The main averments found in the Claim Statement of the Petitioner are as follows:—The petitioner joined as Daily Wage Labour in 1977 in the Office of the Carriage Wagon Superintendent Office, Egmore, Madras-8. Unfortunately he was compulsorily retired from service for unauthorised absence by an Order dated 13-11-95 w.e.f. 28-11-95 as a measure of punishment. On 7-7-93, petitioner lost his father.

The petitioner had to look after his mother and had to spend lot of money towards the medical expenses of his mother. In this period, his wife became mentally disordered and it became very difficult for the petitioner to handle the situation. While so he suffered due to jaundice. After recovery from his illness, he joined duty on 26-11-94 and produced medical certificate for his leave. A Charge Memo dated 25-11-94 was served on him after about 10 days of his joining duty. He submitted his explanation dated 18-1-95, setting forth the above facts. An enquiry was ordered and the enquiry was held on 10-3-95. In the enquiry, nobody was examined on the side of the department. Mr. T. S. Venkataraman, enquiry officer put only three questions. Firstly he asked him, whether he was absent from 17-12-93 to 25-11-94. The enquiry was conducted against the principles of natural justice. But the findings of the enquiry officer was not served on the petitioner. The petitioner preferred an appeal to the Asstt. Divl. Railway Manager and the same was rejected by him by an Order dated 11-3-96. The petitioner prays to hold conciliation talks and to bring about a settlement providing reinstatement with back wages and other attendant benefits.

3. The main averments found in the Counter Statement of the respondent are as follows:—The petitioner Sri M. K. Udayakumar was engaged as a Casual Labour on daily rate w.e.f. 5-12-77 under Carriage and Wagon Superintendent, Madras Egmore. He was granted temporary status w.e.f. 5-4-78 on completion of 4 months continuous service. He was empanelled as Carriage and Wagon Khalasi w.e.f. 30th June, 1984 in Scale Rs. 196—232. The Ex-employee was promoted as Khalasi Helper w.e.f. 4-12-92. He was imposed with a penalty of Compulsory retirement w.e.f. 28-11-95 for having unauthorisedly absented himself from duty w.e.f. 17-12-93 to 25-11-94 without obtaining prior sanction of leave or following Railway Medical Attendance Rules thus violating Section 3(i)(ii) of Railway Service Conduct Rules. The petitioner was issued with a Charge Memorandum for imposition of Major penalty due to the reasons stated supra and the same was acknowledged by him on 24-12-94. An enquiry officer was nominated to inquire into the charges. The petitioner's averment that he submitted his explanation on 18-1-1995 is denied. However, he submitted his defence statement on 21-1-95 which was received in this Office on 13-12-95. The enquiry was fixed on 10-3-95. During the course of the inquiry, he was specifically asked (i) Whether he understood the Charges (ii) whether he accepts the charges and (iii) whether he is in need of any defence helper for which first two questions he answered in affirmative and in negative to the 3rd question, and the proceedings were handed over to him. The averment of the petitioner that nobody was examined on behalf of the administration is not correct. Only in cases where the charges are denied by the delinquent employee, it is essential that the witness be examined to establish the charges. In the instant case as the petitioner has at the outset accepted the charges, the necessity of examining the witness does not arise and hence there is no violation of principles of natural justice. An enquiry report was sent to the ex-employee on 7/13-4-95 which was acknowledged by him on 17-5-95 and he had also represented against the enquiry report on 18-5-95. The petitioner's statement that he had not accepted the charges is false. Moreover, in the cases of absence of employees the fact that they were absent cannot be desired but only reasons be adduced, which may be valid/invalid, acceptable/not acceptable. Therefore the punishment awarded is in order. The appeal of the petitioner to the Addl. Divl. Railway Manager (ADRM) was considered and he was granted a personal hearing though the same was not sought for by the petitioner. The ADRM confirmed the penalty of compulsory retirement duly recording reasons therefor. The Senior Divl. Mechanical Engineer is very much the Disciplinary Authority as per schedule of powers and he is empowered to impose the penalty of Compulsory retirement. The respondent prays to dismiss the Claim of the petitioner.

4. On behalf of petitioner. Ex. W1 to W22 were marked by consent. On behalf of respondent, Ex. M1 to M21 were marked by consent.

5. The Point for consideration is: Whether the action of the management of Divisional Railway Manager, Chennai Division, Chennai in imposing the punishment of Compulsory Retirement on Mr. M. K. Udayakumar w.e.f. 28-11-95 is justified or not?

6. The Point : The petitioner Thiru M. K. Udayakumar entered the Railway service on 5-12-77 as a Casual labour. He was granted temporary status w.e.f. 5-4-78 and was empanelled as a Khalasi under Ex. W1 dated 10-8-1984. He was then promoted as a Khalasi helper w.e.f. 14-12-92. During 1985, his timely service for restoration of Kiliyur bridge was appreciated under a Certificate marked as Ex. W2.

7. Due to unfortunate events in his family, the petitioner had absented himself for a continuous period of 344 days w.e.f. 17-12-93, without obtaining prior permission. There was a Charge Sheet dated 29-11-94 through Ex. M5, to which the petitioner had submitted his explanation dated 21-1-95 through Ex. M6 wherein he has stated as follows :

"There was lot of catastrophe had happened in my life during the absent period from 17-12-93 to 25-11-94 for which I was forced to remain under absent. On 7-7-93 my father who was very fond and maintaining my family was suddenly took ill and was demise. After that my mother who is deeply in love with my father was deeply upset due to my father demise and became B. P. and heart patient. Her health has declined significantly and she was unable to stand or walk. On seeing all these problems my wife who is a young lady and very fond with my father and mother could not able to tolerate the circumstances prevails, she has become mental disorder. She was to become wild..and use to be at my children, she used to run away from house by removing her cloth. So I used to put her inside the room and lock the room. Due to incessant problems, I have failed to take care of my own health, consequent of that I had an attack of Jaundice. I went to Railway Doctor and reported sick on 16-12-93."

8. Ex. M7 is the Nomination of the Enquiry Officer and Ex. M9 is the Enquiry Proceedings. The petitioner's representation was seen under Ex. M14; and M.15 was the Penalty advice, suggesting for Compulsory retirement. Ex. M16 dt. 22-11-95 was the Appeal made by the petitioner. Ex. M18 is the Order dt. 11-3-96 and the Appeal was dismissed. Even the Plea of sympathy made by petitioner in the Revision through Ex. M19 had failed under Ex. M20. Ultimately the Penalty of compulsory retirement was intimated to petitioner under Ex. M21.

9. Regarding the enquiry, what the petitioner wanted to say is that the enquiry was commenced and concluded on the same day namely 10-3-95; that there was no evidence produced, that the enquiry was merely an empty formality in the sense that only three questions were put to the petitioner by Mr. Venkataraman, the Enquiry Officer and the Office Superintendent. The petitioner further contended that the three questions put to him were, whether he was absent from 17-12-93 to 25-11-94; whether he had absented in the service prior to this occasion, whether he has absented subsequent to his joining duty on 28-11-94. The answer given by the petitioner is in negative for the two later questions thereby meaning that neither prior to nor subsequent to the imputed absenteeism, the petitioner had absented himself. Under these circumstances, the learned counsel for the petitioner contended that by invoking the power under Sec. 11(A) of the Industrial Disputes Act, this Tribunal can interfere in the excessive punishment inflicted upon the petitioner, as it is not proportionate to the alleged misconduct of absenteeism and especially when there are reasonable grounds for the petitioner for not having attended the office.

10. We will now go into the reasonability of the absenteeism. As stated in the explanation of petitioner, his father expired on 7-7-93; that due to the demise of her husband the petitioner's mother subsequently suffered a heart attack and that there was huge medical expenses; thereafter the petitioner's wife also became mentally affected and thus there was a chain of unfortunate events. Thus the petitioner found it very difficult in running the family and therefore he has to shift his family to his native place at Coimbatore. The Management did not dispute the fact of the demise of petitioner's father and the fact that the petitioner's mother and wife became ill subsequently. What the learned Counsel for the Management would object is that the alleged Jaundice to the petitioner was false. Of course, there is a Medical Certificate dt. 16-12-93 issued by a Private Medical Practitioner at Salem disclosing that the petitioner was suffering from Jaundice from 16-12-93 and thereafter. It is also true

that that in the explanation of the petitioner through Ex. W6 dt. 18-1-95 he has stated that he was suffering from Jaundice from 16-12-93. But he has not stated the same in his reply dt. 18-5-95 through Ex. M14. Such absence of mentioning about Jaundice in Ex. M14 and the non-examination of Dr. Narayanan who had issued Ex. W3 Medical Certificate may go to improbabilise the alleged illness of Jaundice to the petitioner. But nevertheless the misery surrounded his family, after the demise of his father and due to the illness of his mother and wife is not disputed. It is in such circumstances, that the petitioner had shifted the family to Coimbatore, his native place. By this circumstance, the management can not be expected to contend as if the petitioner had gainfully employed himself at Coimbatore during the long absence of 344 days. Infact there is no evidence indicating that the petitioner had gainfully employed himself some where else during that period. In the absence of such evidence, and when the misery surrounded the family of petitioner was not in dispute it is quite believable that the petitioner was both physically and mentally upset, if not by alleged Jaundice. A man with a status only of Khalasi after having lost his father, and while he was expected to spend a lot on his mother's health too would find himself mentally shocked when his wife had also become ill.

11. One more circumstance, that in favour of petitioner is that the fact of absenteeism alone, is admitted and the reason therefor was well explained by himself; whereas the management could not successfully attribute any wanton mistake on the part of the petitioner. The management could not also successfully prove that the petitioner had gainfully employed himself some where else. Therefore the man while he was in distress could not come to the work. He has never done so excepting the incident in question. He had clean past records. There is also reasonable excuse for his absenteeism. In these circumstances, we can interfere in the award of punishment.

12. It is well settled principle of law that for a misconduct, the punishment should be commensurate with the gravity of misconduct. This was so held in 1990 (4) Supreme Court Cases 314. In that case the appellant was guilty of wilful misconduct in not reporting to duty after his transfer from Indian High Commission at London to Office of the External Affairs Ministry at New Delhi. The Enquiry Officer found that though the appellant derelicted his duties to report to duty, it was not wilful, for the reasons that he could not move due to his wife's illness. In that case, gratuity and pension was withheld. The Court held that the measure of deprivation of pension must be correlative to or commensurate with the Gravity of Grave Misconduct or irregularity. Therefore the appeal was allowed and the Impugned order was quashed.

13. Similarly, in 1997 (5) Supreme Court Cases p. 57 a person was absent to duty for 5 years from 1-5-87 it was held that he was eligible for reinstatement without backwages.

14. Even in our Hon'ble High Court in WP No 11943/93 it was held that the only reason for his continued absence was due to his family problems and that the capital punishment of dismissal was set aside as it was found highly excessive. In that case also continuity of service without backwages was granted. That was also a case of unauthorised absence for a long period.

15. Similarly in WP No 11205/1987 of our Hon'ble High Court there was a case of long absence in duty and major punishment was set aside.

16. Thus in this case also, there is reasonable explanation by the workman for his unauthorised absence. So the Order of Termination from service is set aside and in the above circumstances, he is ordered for reinstatement with continuity of service but without backwages, by following the principle that there can be no pay for no work. Award passed accordingly. No costs.

Dated at Chennai, this 30th day of October, 2000.

S. R. SINGHARAVELU, Industrial Tribunal

I.D. 75/98

WITNESSES EXAMINED

For Petitioner/Workman—None.

For Respondent/Management—None.

DOCUMENTS MARKED

For Petitioner/Workman :

- Ex. W1 10-8-84—Office order regarding absorption of empanelled conditions against vacancies.
- Ex. W2 18-12-95—Certificate of Appreciation issued by the Management to the petitioner.
- Ex. W3 16-12-93—Medical certificate for leave in between 16-12-93 to 25-11-94.
- Ex. W4 25-11-94—Certificate of fitness for return to duty issued by Dr. A Narayanan regarding Medical Practitioner to the petitioner.
- Ex. W5 25-11-94—Memorandum issued by the respondent to the petitioner.
- Ex. W6 18-1-95—Explanation submitted by the petitioner to the Memorandum issued by the respondent.
- Ex. W7 21-2-95—Enquiry notice sent by the Management to the Petitioner.
- Ex. W8 23-2-95—Enquiry notice sent by the management to the petitioner.
- Ex. W9 10-3-95—List showing that petitioner attended the enquiry.
- Ex. W10 13-11-95—Order of termination issued by Respondent Management.
- Ex. W11 22-11-95—Petitioner's Mercy appeal to the respondent.
- Ex. W12 1-2-96—Management notice to the petitioner.
- Ex. W13 11-3-96—Orders rejected the Mercy appeal.
- Ex. W14 5-7-96—Petitioner's Review petition before the Management.
- Ex. W15 29-5-96—Review petition submitted by petitioner to the Management.
- Ex. W16 8-8-96—Orders Rejections the Review petition.
- Ex. W17 29-8-96—Letter from the respondent to the petitioner.
- Ex. W18 2-9-96—2-A raised by the petitioner before the Asstt. Labour Commissioner.
- Ex. W19 15-7-97—Minutes of Joint discussion before Conciliation Officer.
- Ex. W20 29-7-97—Failure report issued by the Conciliation Officer.
- Ex. W21 16-12-93—Medical certificate issued by Medical Officer.
- Ex. W22 25-11-94—Fitness issued by Medical Officer.

For Management/Respondent :

- Ex. M1 ... —Indian Railway Estt. Code Leave Rules 503, 511, 519, 521.
- Ex. M2 28-11-94—Carriage and Wagon Superintendent in Sr. DME/Mas.
- Ex. M3 28-11-94—Sr. Divisional Medical Officer fitness certificate.
- Ex. M4 28-11-94—Sr. DMG/Mas to CWS/Mds.
- Ex. M5 29-11-94—Charge sheet.
- Ex. M6 21-1-95—Explanation.
- Ex. M7 21-2-95—Nomination of Enquiry Officer.
- Ex. M8 23-2-95—Nomination of Enquiry date.

Ex. M9 10-3-95—Enquiry proceedings.

Ex. M10 ... —Findings of the Enquiry Officer.

Ex. M11 13-4-95—AME/I MAS to petitioner.

Ex. M12 27-4-95—Sr. DME/Mas to CWS/Mas.

Ex. M13 17-5-95—Acknowledgement of the petitioner.

Ex. M14 18-5-95—Representation to AME/I/MAS by the petitioner.

Ex. M15 14-11-95—Penalty advice.

Ex. M16 22-11-95—Appeal by petitioner.

Ex. M17 1-12-96—Intimation letter by Sr. D P O. to petitioner.

Ex. M18 11-3-96—Disposal to appeal dated 22 11-95.

Ex. M19 29-5-96—Revision petition to CME/Mas.

Ex. M20 8-8-96 Disposal of Revision petition

Ex. M21 29-8-96—Intimation to petitioner by APO/Mas.

नई दिल्ली, 5 दिसम्बर, 2000

का. अ. 2784.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे, हजरतगंज, लखनऊ के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-2000 को प्राप्त हुआ था।

[सं. एल-41012/286/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 5th December, 2000

S.O. 2784.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway, Hazratganj, Lucknow and their workmen, which was received by the Central Government on 4 December, 2000.

[No. L-41012/286/99-IR (BI)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR
COURT, LUCKNOW

Presiding Officer : Rudresh Kumar

ADJUDICATION

BETWEEN

Mohd. Saleem
S/o Sri Subhan
House No. 548/Gha/124
Teji Khera
P.O. Manak Nagar
Lucknow

AND

Divisional Mechanical Engineer (P)
Northern Railway
Hazratganj
Lucknow

By reference No. L-41012/286/99/IR (B-I) dated 24-5-2000, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub section (1) of section 10 I.D. Act, 1947 made over this industrial dispute between Mohd. Saleem S/o Subhan and Divisional Mechanical Engineer (P), Northern Railway, Lucknow for adjudication. The reference is re-produced as under:

“WHETHER THE ACTION OF RAILWAY MANAGEMENT WAS JUSTIFIED IN NOT GIVING PROMOTION TO MOHD. SALEEM AFTER ADJUSTING IN THE PANEL OF 1982-83 ? IF NOT WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

This industrial dispute has been raised by the Div. Organisation Secretary, Northern Railway Karmchari Union, espousing the cause of one Mohd. Saleem, who was engaged on 1-4-80 as cleaner in the Loco Shed, Northern Railway, and worked till 4-9-1981. Management terminated his services without any notice or other pecuniary benefits, against the provisions of law, and so the workman raised Industrial Dispute No. 48/83 before the CGIT-cum-Labour Court, Kanpur. The learned Tribunal by its order dated 1-1-1987 ordered reinstatement of Mohd. Saleem with back wages. A writ petition No. 12743/87 against the said award, was also dismissed by the High Court.

2. In compliance of the award, the management reinstated Mohd. Saleem but allegedly denied his promotion on the post of Diesel Asstt., despite the fact that he passed his medical examination in 'A' category. It is further averred that junior to Mohd. Saleem named Amarjeet shown at Sl. No. 64 of the seniority list, was promoted as Diesel Asstt. and Mohd. Saleem stands denied his rightful promotion. It is claimed by Mohd. Saleem, to be treated regularised from the year 1982-83 and deemed to be promoted to the post of Diesel Asstt. from the date his next junior was promoted.

3. The management has pleaded that Mohd. Saleem entered on the role of railway

administration, illegally and fraudulently alongwith some other persons. However, it has admitted that an award was given against the management and Mohd. Saleem was ordered to be reinstated with back wages. Accordingly, Mohd. Saleem was reinstated on 26-6-90 and promoted on 27-7-93 as IInd Fireman. He was paid all back wages on reinstatement. The case of the management is that subsequent to the reinstatement a disciplinary proceeding was initiated against Mohd. Saleem and he was found to have committed grave mis-conduct. He was reverted to the post of cleaner on 31-5-94. He filed appeal against this punishment which was modified in appeal on 10-5-97. His one increment was stopped without cumulative effect. However, on re-screening, Mohd. Saleem succeeded on 31-12-97 and was posted as Fuel Khalasi on which post he is still working.

4. The management also questioned locus standi of the Div. Secretary, Northern Railway Karmchari Union. It is said that Mohd. Saleem did not authorise the Union raise this industrial dispute, espousing his cause. Likewise Mohd. Saleem did not appear before the Tribunal as a witness. The claim statement was filed by Mr. Parvez Alam, Div. Orgn. Secretary, Northern Railway Karmchari Union, under his own signature. Mr. Parvez Alam on 18-9-2000, informed that the Mohd. Saleem be issued notice by the Tribunal, to file rejoinder, as he is not rendering cooperation despite notice. On request of Mr. Parvez Alam, a notice was also issued but Mohd. Saleem did not put appearance.

5. Mr. Parvez Alam appeared as a witness to state facts which was in the knowledge of Mohd. Saleem, who is still working. Indifference of Mohd. Saleem in stating his case before the Tribunal as workman's witness is sufficient to raise doubt whether the union was ever authorised to espouse his cause. Had Mohd. Saleem any grievance, he ought have been appeared a primary evidence. Despite questioning of the locus standi, the workman union did not file document to show that it was authorised by Mohd. Saleem at any point of time to espouse his cause. No comment is needed, whether Northern Railway Karmchari Union is approved and registered union, since it has already been observed that it lacked authority to represent Mohd. Saleem and espouse his cause, in absence of authorisation proved before the Tribunal, despite challenge of the management.

6. Coming to the merit of the reference, the workman Union failed to substantiate facts mentioned in the claim statement. Management has proved without denial that Mohd. Saleem was promoted as Fireman-II and later reverted as a measure of punishment after domestic enquiry. Management's plea of rescreening and posting of Mohd. Saleem as 'Fuel Cleaner' is also not denied. Nothing shown that Mohd. Saleem was to be promoted in preference to the person appointed as Deisel Asstt.-II. In this situation, the reference has to be answered against the workman.

Accordingly, the award is as under :

- A. that the workman union failed to prove prior authorisation to represent Mohd. Saleem and so has no locus standi; and
- B. that action of the management is not unjustified in denying the post of Deisel Asstt.-II to Mohd. Saleem.

LUCKNOW

28-11-2000

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 5 दिसम्बर, 2000

का. अ. 2785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लक्ष्मी विलास बैंक लिमि. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-2000 को प्राप्त हुआ था।

[सं. एल-12012/126/94-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 5th December, 2000

S.O. 2785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lakshmi Vilas Bank Ltd. and their workman, which was received by the Central Government on 4th December, 2000.

[No. I-12012/126/94-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU CHENNAI

Monday, the 20th day of November, 2000

PRESENT :

Thiru S. R. Singharavelu, B.Sc. B.L., Industrial Tribunal.

Industrial Dispute No. 78 of 1995

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Lakshmi Vilas Bank Ltd., Karur.).

BETWEEN

The Workmen represented by
The General Secretary,
Lakshmi Vilas Bank Employees Union,
29, Wallajah Road,
Madras-600 002.

AND

The Chairman and Chief Executive Officer,
Lakshmi Vilas Bank Ltd.
Salem Road,
Kathaparai,
Karur-639 006.

REFERENCE :

Order No. L-12012/126/94-IR(BI) dated 30-11-95, Ministry of Labour, Govt. of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 14th day of November, 2000, upon perusing the reference, Claim and Counter statements and all other material papers on record and upon hearing the arguments of Thiru D. Hariparanthaman for Tvl. K. Chandru, D. Bharathy and M. Muthupandian advocates appearing for the workmen and of Tvl. T. S. Gopalan and Co., advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

The Government of India has referred the following issue for adjudication by this Tribunal :

"Whether the action of the Management of Lakshmi Vilas Bank Ltd., in reducing the House Rent allowance from 8% to 6-1/2% w.e.f. 1-4-94 in respect of the award staff working in their administrative office in Kathaparai (Karur) is justified? If not to what relief they are entitled?"

2. The main averments found in the Claim statement of the respondent are as follows :

The administrative office of the Respondent Bank was functioning at Madras. In fact the Administrative office was originally functioning at Karur and was shifted to Madras only in the year 1974. Apprehending their shift back to Karur, during the year 1982. The union in its letter dated 14-3-82 pointed out the difficulties that will be faced by the employees due to the shifting. It was stated that unwilling employees should not be transferred and those employees who were shifted, their rights and privileges including wages and allowances should not be affected in that process. The respondent bank agreed with the same and its office was functioning at Karur since the year 1983. The respondent once again shifted the office which was functioning in Karur Municipality to a village adjacent to the Municipality by name Kathaparai. In fact the

Kathaparai village is in a continuous area and forms part of Urban agglomeration of Karur. The respondent bank unilaterally put up by a notice dated 12-2-92 stating that since the Administrative office and the registered office were situated in a village, the staff members will get reduced House Rent Allowance and that the reduction will take place after 31-12-92. It must be stated when the office was at Karur, the employees were getting 8% of the House Rent Allowance and due to the shift, the office came to be in a Village Panchayat, the HRA was reduced to only 6-1/2%. Notwithstanding the protest, the respondent issued a notice under Section 9A of the I.D. Act vide its notice dated 28-2-1994. The respondent was not correct in altering the HRA merely because the office was shifted to a village. However, the HRA given to meet the rise in cost of Living Index for which the calculation of HRA should be based upon as to where majority of the employees were residing and not the place where office was situated. Even after the shifting of office, the employees are not given transport facilities. Locating the office cannot be used as a pretext to deny H.R.A. The petitioner prays to pass an award holding that the action of the respondent in reducing the HRA rate from 8% to 6-1/2% is wholly illegal.

3. The main averments found in the Counter Statement of the respondent are as follows :

The respondent is a Banking company having its registered office at Kathaparai, Karur with branches and other offices located in various cities, towns and villages throughout the country. One such long term settlement on an industrywise basis was made on 29-6-90 to which the respondent was a party. If the place of work is with a population of 10000 and above but below two lakhs, the rate of house rent allowance would be 8% subject to a minimum of Rs. 90. As early as 1989 the Respondent Bank decided to put up its own building for housing the registered office, as well as the Administrative offices, it constructed a building at Kathaparai which is at a distance of 3 Km from Karur. When the respondent bank started constructing the building, in Kathaparai, the award staff as well as the officers were aware that when once they were shifted to Kathaparai, in terms of the bi-partite settlement dated 29-6-90, they would be shifted to house rent allowance only at 6-1/2%. The award staff are liable to be transferred within the same language area and when such transfers take place, they draw house rent allowance at the rates applicable to the area in which the branch or the office to which they are posted is located. The petitioner union represented that the variation in the rate of house rent allowance consequent to the shifting of office from Karur to Kathaparai. In deference to the said representation, by a notice dated 12-2-92, the Board of Directors of the respondent permitted payment of house rent allowance to the award staff at the rate as applicable to Karur area till 31-12-92. However, it was maintained that from 1-4-94 they will be paid house rent allowance strictly as per the terms of the settlement dated 29-6-90. It was in this context, by way of abundant caution, on 28-2-94, the respondent issued a notice under Sec. 9A of the I.D. Act proposing that effective from 1-4-94, the Award staff still receive House Rent allowance at 6-1/2%. There is no reduction of wages done by the respondent. The variation

in the rate of house rent allowance is because of the terms of the bi-partite settlement dt. 29-6-90, that the same would not amount to an alteration of service condition. Kathaparai is hardly 3 Km from Karur and is well connected by public transport. Therefore, by mere reasons of shifting of Administrative offices from Karur to Kathaparai involving a distance of 3 km, the employees cannot ask for any special concession or privilege or transport facilities. When the payment of house rent allowance is governed by a Bi-partite Settlement, there is little scope for the employees to make a Claim for house rent allowance contrary to the terms of the bi-partite settlement. The respondent prays to dismiss the claim of the petitioner.

4. On behalf of petitioner, Ex. W1 to W11 were marked by consent. On behalf of respondent, Ex. M1 to M11 were marked by consent. No witnesses were examined for both sides.

5. The Point for consideration is : Whether the action of the Management of Lakshmi Vilas Bank Ltd. in reducing the house rent allowance from 8% to 6-1/2% w.e.f. 1-4-94 in respect of the Award staff working in their Administrative office in Kathaparai (Karur) is justified? If not to what relief they are entitled?

6. The Point : The Lakshmi Vilas Bank Ltd. (respondent) is a banking company having its registered office at Kathaparai, Karur with branches and other offices located in various cities, towns and villages etc. The Administrative office was originally functioning at Karur and was shifted to Madras in the year 1974. Apprehending the bank's shifting back to Karur during the year 1982, the petitioner union in its letter dated 14-3-82 marked as Ex. W1 pointed out the difficulties that will be faced by the employees in the event of shifting to Karur. A resolution to that effect was also passed on 12-4-93 a copy of which was marked as Ex. W2. A suit in O.S. No. 2728/83 was also filed in the City Civil Court by the petitioner Union and an Order of Injunction was also obtained. The same was informed to the management by the petitioner's letter through Ex. W3 dated 16-4-83. Ex. W4 and W5 are such letters of the petitioner union made in the year 1984 and 1994 describing the details of difficulties in the event of shifting. But the respondent bank had once again shifted the office to Kathaparai nearby village to Karur. Ex. M1 is the concerned Circular dated 7-1-92, whereby Kathaparai described as Karur-6, to which the new administrative office complex was shifted. It is true that there is a Bi-partite settlement which also contains certain clauses regarding house rent allowance and the same was marked as Ex. M5, according to which at places with population of less than 10000, the House Rent allowance will be paid at the rate of 6-1/2% of the pay with minimum of Rs. 55 and maximum of Rs. 155 p.m. After small adjustments in payment of the erstwhile house rent allowance of 8% of pay even after the shifting of office made to Kathaparai, as the respondent management could not find it convenient, it had resorted to pay house rent allowance only in accordance with the Bi-partite settlement and therefore preferred to issue notice under Sec. 9A of the Act through Ex. M4 dt. 28-2-94, stating that w.e.f. 1-4-94 house rent allowance will be paid only in accordance with the Bi-partite agreement instead of the erstwhile payment of

8% of the pay. When the office was at Karur, the employees were getting 8% of the house rent allowance. Now since the office was shifted to Kathapara the house rent allowance was reduced to 6-1/2%. Thus about 75 award staff who are working in the administrative office at Kathapara are put to loss and inconvenience. The claim of conveyance allowance made by the petitioner union was also not yet settled. It is also stated in Ex. W5 dated 16-3-94, the representation of the petitioner union that there is no accommodation or living place at Kathapara except the bank's building complex in the said village; all other structures are either huts or one or two terraced buildings, meant for the village Panchayat etc; hence all members of staff including officers commute from Karur, that apart even for light refreshment one has to look only the canteen provided by the bank; there is a way side tea shop in the event of office complex which is the only other shop of refreshment. It is in consideration of all these inconveniences that the employees had to suffer and after prolonged negotiations, the respondent management had for some time continued to pay H.R.A. at the erstwhile rate of 8% even after the office complex was shifted to Kathapara. As the management felt it inconvenient they gave a notice under Sec. 9A of the Act by saying that the H.R.A. will be paid only according to the Bi-partite settlement w.e.f. 1-4-94.

7. The Learned Counsel for the respondent management argued that as per the Bi-partite Settlement, whenever the office is working in a place where the population is less than 10000 it was agreed with the petitioner union that the house rent allowance payable is only 6-1/2% of the pay. It is true that such an agreement is in vogue. It is as per the Bi-partite Meeting held on 10-4-89 and according to the Settlement dated 29-6-90. The actual shifting of the administrative office into Kathapara was by a Circular dated 7-1-92 marked as Ex. M1. Therefore, the Learned counsel for the petitioner union contended that during the time of settlement, there was no contemplation about the shifting of the office complex to Kathapara which of course is a village having population less than 10000, as seen under Ex. M10 letter dated 25-9-98 of the Joint Director of Census Operation, Madras. There is also another letter of Director of Census operation through Ex. M11 wherein it was stated that Kathapara is a rural unit that does not form part of Karur Urban Agglomeration. It is also stated in para 16 of the Counter that Kathapara is hardly 3 K.Ms from Karur, and is well connected by public transport and that there was no inconvenience to the employees. From the above plea made in the counter and the contents made in Ex. M11, we are able to understand that Kathapara is only adjoining Karur. The fact that there are no good housing facility at the said village of Kathapara is also not effectively disputed. Therefore, it becomes certain that all the staff at Kathapara office will have to necessarily come from Karur as they did earlier, while claiming 8% house rent allowance. It is to suite the convenience of the management that they have shifted the office complex to Kathapara. It is also made clear that there is no good housing facility at the said village. Therefore, the staff members have to continue to come only from Karur, when this is the realistic situation, they should not be deprived of their benefits of house rent allowance which they enjoyed

earlier. The answer given by the respondent bank that the employees are bound by Bi-partite settlement is unacceptable because the change involved was not brought by the terms of settlement but was brought only due to the shifting of the office. Moreover, there is no explicit terms in the Bi-partite settlement showing that during that period itself both parties contemplated upon shifting of office complex to Kathapara.

8. The learned Counsel for the Petitioner union relied up a judgement dated 1-12-1997 of our Hon'ble High Court, in Writ Appeal No. 1503/97 wherein also a similar case of reduction of H.R.A. became the subject matter of issue due to amalgamation of Cheran Engineering Corporation with Cheran Transport Corporation. In that case also, the Bi-partite settlement was also put as a shield by the management. There was also a similar notice under Sec. 9A of the Act issued in that case. It was held as follows :

"The question, therefore, which now falls for consideration is as to whether the respondent management is justified in taking shelter under the proviso to Section 9A of the Act which stipulate that no notice as contemplated under Sec. 9A of the Act shall be required to be given in effecting any change in the conditions of service applicable to any workmen in respect of any matters specified in the IV Schedule when such change is effected in pursuance of any settlement or award.

... It is not, in our view, the terms of the settlement in question that brings about a change, but, it is the consequence of amalgamation and the change in the headquarters of the company that is sought to be relied on or availed of to bring about a change in the conditions of service.

... Consequently, we see no merit in the stand taken by the respondent management by placing reliance upon the proviso to Section 9A of the Act."

It was further observed as follows :

"The attempted justification for reduction also does not appear to be either just or reasonable and does not also appear to conform to either logic or reason. The house rent allowance is payable in respect of the facility of accommodation for the worker. The workers have been drawing in the very same place of Pollachi as per the terms of the settlement, house rent allowance at 15% of the pay and it is not as though, their place of work is now shifted by the change caused by virtue of the amalgamation. The headquarters of the company which is brought now into existence has changed and thereby the headquarters of the erstwhile company has been altered. Such changed or altered circumstances which came into existence nearly after 1-1/2 decades could not have been within the contemplation of either of the parties and having regard to the nature of the allowance and the purpose for which such allowance is granted and the protection accorded to their conditions of service, I see no justification also even on merits for withdrawing the same"

9. Based upon the findings given in the above cited case which had similar footing on facts and also based upon reasons given supra. The action of the management of respondent management in reducing the house rent allowance from 8% to 6-1/2% with effect from 1-4-94 in respect of the award staff working in their administrative office in Kathapara (Karur) is not justified. The workmen are entitled to the erstwhile house rent allowance of 8%. Award passed. No costs.

Dated at Chennai, this 20th day of November, 2000.

S. R. SINGHARAVELU, Industrial Tribunal.

I.D. No. 78/95

WITNESSES EXAMINED

For Petitioner/Workmen : None.

For Respondent/Management : None.

Documents marked

For Petitioner/Workmen

Ex. W1 14-3-82 : Letter by the union objecting the proposed shifting of administrative office from Madras to Karur.

Ex. W2 12-4-93 : Resolution by the union against shifting of A.G. from Madras-2.

Ex. W3 16-4-83 : Notice informing the management about interim injunction.

Ex. W4 24-10-84 : Letter by the union not to transfer unwilling employers and to protect their rights and privileges.

Ex. W5 16-3-94 : Application by the union to the R.L.C. with annexures.

Ex. W6 15-4-94 : Notice of conciliation issued by the A.L.C.

Ex. W7 7-5-94 : Remarks filed by the management.

Ex. W8 17-5-94 : Letter by the union to the management complaining about the alteration of conditions of service.

Ex. W9 8-6-94/22-6-94 : Rejoinder statement filed by the union to the above remarks.

Ex. W10 7-6-94 : Minutes of Conciliation proceedings.

Ex. W11 29-6-94 : Failure report.

For Respondent/Management

Ex. M1 7-1-92 : Circular No. 37/91-92 Shifting of offices to new premises at Kathapara.

Ex. M2 12-2-92 : Notice regarding payment of HRA to Award staff.

Ex. M3 30-12-92 : Letter from petitioner to Respondent.

Ex. M4 28-2-94 : Form 'E' Notice of change issued in terms of Sec. 9A of I.D. Act by the respondent.

Ex. M5 Bi-partite Settlement Provision of HRA.

Ex. M6 ... Bi-partite Settlement Policy regarding Transfer.

Ex. M7 ... Transfer policy of the respondent. Regarding Award Staff.

Ex. M8 15-3-94 : Notice of respondent.

Ex. M9 29-6-90 : Settlement under Sec. 18(1) of the I.D. Act between the Indian Bank's Assn. (representing 54 'A' Class Banks) and National Confederation of Bank Employees.

Ex. M10 25-9-91 : Letter from Joint Director of Census Operations, Madras to respondent.

Ex. M11 9-12-91 : Letter from Joint Director of Census Operations, Madras to respondent.

नई दिल्ली, 7 दिसम्बर, 2000

का. आ. 2786.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिमी रेलवे के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोटा के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-12-2000 को प्राप्त हुआ था।

[सं. एल-41012/99/98-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th December, 2000

S.O. 2786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kota as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 6th December, 2000.

[No. L-41012/99/98-IR(BI)]
AJAY KUMAR, Desk Officer.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी — श्री महेश चन्द्र भगवती, आर.

एच. जे. एस.

निर्देश प्रकरण क्रमांक : औ. न्या/केन्द्रीय/7/99

दिनांक स्थापित : 31/3/99

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश

सं. एल. 41812/99/98-आई. आर. (बी.

आई.) दिनांक 17-3-99

निर्देश अन्तर्गत धारा 10(1)(घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

मुनीलाल बगैरह द्वारा डिविजनल सेनेट्री, पश्चिमी रेलवे कर्मचारी परिषद, कोटा/राज.

—प्राथमिक श्रमिक

एवं

डिविजनल रेलवे मैनेजर, पश्चिमी रेलवे, कोटा।

—अप्रार्थी नियोजक

उपस्थित

प्रार्थीगण श्रमिक की ओर से प्रतिनिधि :—श्री ए. डी. ग्रोवर
अप्रार्थी नियोजक की ओर से प्रतिनिधि :—श्री बी. एल.

धोलपुरिया

अधिनिर्णय दिनांक : 24-10-2000

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय नई दिल्ली द्वारा अपनी उक्त आदेश दिनांक 17-3-99 के जरिये निम्न निर्देश-विवाद अनुसूची, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त “अधिनियम” से सम्बोधित किया जायेगा) की धारा 10 (1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :—

“Whether the action of Divisional Railway Manager, Western Railway, Kota through its officers for not regularising the Services of S/Shri Muni Lal, Fakruddin, and Mata Prasad casual Labourers on the basis of screening held on 7-6-96 is justified or not. If not, for what relief the workman are entitled to and from which date.”

2. निर्देश-विवाद अनुसूची इस न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त दोनों पक्षों को सूचना जारी की गयी जिस पर दोनों पक्षों की ओर से अपनी-अपनी उपस्थिति न्यायाधिकरण में दी गयी।

3. आज पत्रावली प्रार्थी पक्ष की ओर से क्लेम स्टेटमेन्ट प्रस्तुत किये जाने हेतु नियत थी परन्तु उनकी ओर से कोई क्लेम स्टेटमेन्ट प्रस्तुत नहीं किया गया व ना ही प्रार्थीगण श्रमिक न्यायाधिकरण में उपस्थित हुए हैं। पत्रावली के अवलोकन से प्रकट होता है कि प्रार्थीगण के विद्वान प्रतिनिधि को अनेकों अवसर दिये गये किन्तु उनकी ओर से कोई क्लेम स्टेटमेन्ट प्रस्तुत नहीं किया गया, इससे स्पष्ट है कि प्रार्थीपक्ष को इस वाद में रुचि नहीं है। अतः क्लेम के अभाव में सम्प्रेषित निर्देश-विवाद प्रार्थीगण के विरुद्ध एवं अप्रार्थी के पक्ष में अधिनिर्णय किया जाता है।

इस अधिनिर्णय को समुचित सरकार को नियमानुसार प्रकाशनार्थ भिजवाया जावे।

महेश चन्द्र भगवती, न्यायाधीश

नई दिल्ली, 7 दिसम्बर, 2000

का. अ. 2787.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रेलवे मेल सविस के प्रबन्धन के संबंध में निम्नलिखित श्रमिकों की ओर उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण

हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-12-2000 को प्राप्त हुआ था।

[स. एल-41012/163/98-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7 h December, 2000

S.O. 2787.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Railway Mail Service and their workman, which was received by the Central Government on 6-12-2000.

[No. L-41012/163/98-I.R.(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT
HYDERABAD.

PRESENT :

Sri Syed Abdullah, B.Sc., B.L., Industrial Tribunal-I.

Dated : 31st day of October, 2000

Industrial Dispute No. 23 of 1999

BETWEEN :

Sri J. D. V. Prakash, Ex. E.D. Man,
Behind CSI Church, Pezzonipet,
Vijayawada.

Petitioner

AND

1. The Sr. Suptd. of RMS, RMS Y Division, Vijayawada.

2. The Head Record Officer, RMS Y Division, Vijayawada-1. ... Respondents.

APPEARANCES :

Sri William Burra, Advocate for the Petitioner.

Sri A. Raghavaiah, Sending Counsel for the Respondents.

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following Industrial Dispute under Section 10(1)(d) and Sub-section (2A) of Industrial Disputes Act, 1947 to this Tribunal for adjudication, vide Order No. L-41012/163/98-IR(B-I), Dt. 15-2-1999.

“Whether the action of the Management of Railway Mail Service in inflicting the punishment of dismissal from service on Sri J.D. V. Prakash, Ex. E.D. Man, RMS, Y Division, Vijayawada is justified? If not, to what relief the workman is entitled to?”

Both parties appeared and filed their respective pleadings.

2. The workman filed claim statement and its averments are briefly stated as under : The petitioner was appointed as casual labour on 15-7-1977 and worked

for 5 Hours a day. In the said capacity he worked for 2-1/2 years. Later he was selected as E.D. Agent and was appointed as such from 1-2-1980. In that post, he worked till 31-12-1997. In all he served for about 21 years and discharged his duties satisfactorily without any remark whatsoever. While so, he fell sick on 2-4-97 and he informed to the respondent by sending leave letters dt. 2-4-97, 1-7-97 and 30-7-97 which were sent through messenger. But the said leave applications were rejected by the management. In spite of his best efforts to get leaves sanctioned but in vain. On account of sickness the petitioner could not attend for duty from 2-4-97. The petitioner reported for duty on 1-11-97 with the medical certificate of fitness. But he was not allowed to join duty by the respondent. An enquiry was initiated against the petitioner for his absence from duty for the period from 1-11-97 to 31-12-97. He was issued with a charge sheet on 26-12-97 calling for his explanation. The petitioner submitted his explanation denying the charges and stated the reasons for his absence on account of his illness for the period from 2-4-97 to 31-10-97. Instead of his explanation, he was kept on put off duty with effect from 1-1-1998 and ultimately the services of the petitioner were terminated from 21-4-1998. The action of the respondents is illegal arbitrary and violative of principles of natural justice. The punishment of termination is disproportionate to the alleged misconduct on account of the absence for duty. Hence prayed to set aside the impugned order and to order reinstatement with continuity of service and full backwages in the interest of justice.

3. The respondents filed counter and briefly the averments are as under : It is submitted that 21 Mail Men vacancies were notified for the year 1990 and examination was conducted on 12-8-90. 21 candidates were selected from EDMN including the petitioner, but only 10 candidates were absorbed in the existing vacancies and remaining 11 candidates were not absorbed as the posts were abolished and also due to non-viability of physical vacancies. After notification in the year 1990 Sorting Section was cancelled. Under the said circumstances, 11 candidates are not taken into. While so, some of the candidates filed OA No. 544/97 before the Central Administrative Tribunal. The Tribunal held that the empanelled candidates have no rights to be appointed.

4. The petitioner remained absent for duty from 2-4-97 to 31-10-97 unauthorisedly. He never communicated or applied for sanction of leave. The service of the petitioner is governed by the P&T ED Agents Conduct and Service Rules, 1984. Under Rule 5 of it, a person should not absent from his duties continuously for more than 180 days in a year. The petitioner unauthorisedly absent for more than 180 days and as such violated the provisions of Rule 5. Under Rule 8 if any person violated the Rule 5, such person will be removed from service. As per the procedure laid down in the rules, following the said procedure, the 2nd respondent issued a charge sheet under a memo No. JDVP/EDMN dt. 26-12-97 and appointed Inspector HSG. II Vijayawada as an inquiring authority. The petitioner was given reasonable opportunity to take part in the inquiry and to plead his case before the inquiring authority. The authority after hearing the petitioner submitted his report on 11-3-98. A copy of it was supplied to the petitioner

so as to enable him to submit his written representation to the HRD RMS Division. The said authority disposed of the representation by passing final order under Memo No. PF/JDVP dated 21-4-98 removing the petitioner from service. It is settled law that the Department of Posts is not an industry which was decided in Civil Appeal Nos. 338586 of 1996 on 2-2-97. Hence prayed to dismiss the claim.

5. The point for adjudication is whether the impugned order of dismissal of Sri J.D.V. Prakash from service is justified? If not to what relief he is entitled?

6. At the stage of hearing, on the point of domestic enquiry, the petitioner counsel consented to hold the domestic enquiry as valid and thereby by consent, the documents filed by the workman are marked as Exs. W1 to W15 and the respondent has relied on the very same documents. Further the conduct rules of Extra-Departmental Agents (Conduct and Service) Rules, 1964 filed by the petitioner are very much relied.

7. Admittedly the petitioner was appointed as E.D. Agent on 1-2-1980 and while working under 2nd respondent he absented from duties with effect from 2-4-1997 to 31-10-1997. Accordingly the petitioner he submitted leave applications Exs. W1 to W3 by sending through messenger from time to time. But the same were not accepted and after his recovery, he reported for duty along with Ex.W4 sick and fitness certificate issued by the Private Doctor. But he was not taken on duty by sanctioning the leave. On the other hand he was issued with charge memo Ex.W6 to hold an enquiry keeping him under 'put off' duty, for which he submitted his explanation explaining the circumstances in which he was prevented from attending duty on account of his sickness. On the other hand the contentions raised by the respondents are two fold (1) that the Postal Department is not an industry to attract the Section 2(s) of the I.D. Act. So the dispute to be dismissed as not maintainable. In support of his contention, reliance is placed upon a decision of Hon'ble Supreme Court reported in 1996 (72) FLR 690 (SC)-Sub-Divisional Inspector of Post vs. Theyyam Joseph that the Postal Department is not an industry. But in respect of the said judgement in a subsequent decision of Hon'ble Supreme Court reported in (1997) SCC 767-General Manager, Telecom vs. A. Srinivasa Rao. The Hon'ble Supreme Court held that any Bench of lesser strength cannot take a contrary view to the earlier larger bench of the Supreme Court decision decided in Bangalore Water Supply case holding that the Telecom Department is an Industry within the meaning of Section 2(s) of the Act which should be following in preference to subsequent decision of earlier Bench. So in view of the settled law the postal department is also an industry and so the contention raised by the respondent does not hold water. The second contention is that the petitioner since has violated the Rule 5 of E.D.A. Conduct and Service Rules R/W Rule 8 there was no option except to pass order of removal by issuing a Memo No. PF/JDVP Prakash at VJA-520001 dt. 21-4-1998 which cannot be questioned as not justified under law.

8. Whereas it is argued for the petitioner that the Rule 5 of Leave Rule was amended in 1998 under which, the Heads of the Circles have been delegated powers to sanction leave to E.D. Staff beyond 180

days on account of genuine reasons. Further as per Rule 8 if E.D.A. absents beyond 180 days, necessary procedure has to be followed under Rule 8 which is not been done so.

9. In order to know service conditions of E.D.A., the right and duties of such employees and the merits of pros and cons of the contentions put forth by the parties, it is necessary to elaborate the relevant rules.

Section II

Orders of Government on the Recommendations G.I. Deptt. of Posts, O.M. No. 26-1/97-PC & ED Cell, dated 17-12-1998 :

2. (c) Leave.—Extra-Departmental Agents may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998

Section III

EDA Conduct and Service Rules

5. LEAVE.—The employees shall be entitled to such leave as may be determined by the Government from time to time :

Provided that :

- (a) where an employee fails to resume duty on the expiry of the maximum period of leave admissible and granted to him, or
- (b) where such an employee who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit upto which he could have been granted such leave,

he shall, unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 8.

DIRECTOR GENERAL'S INSTRUCTIONS

- (1) Leave of 10 days for every half year.—Extra Departmental Agents may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.

[D.G. Posts O.M. No. 26-1/97-PC & ED Cell dt: 17-12-98 para 2(c)]

- (2) Granting of leave to ED Agents and appointment of substitutes.—A reference is invited to Rule 5 of the ED Agents (Conduct and Service) Rules, 1964, according to which the employees shall be entitled to such leave as may be determined from

time to time. In accordance with this provision, Government of India have decided that leave for ED Agents should be regulated as below :—

- (1) The expression 'leave' as applied to ED Agents means 'period during which with the approval of the Appointing Authority, an ED Agent is permitted not to attend personally to the duties assigned to him, provided that in cases where a Superintendent of Post Offices is the Appointing Authority, such approval may be accorded on his behalf, by the concerned inspector of Post Offices for a period not exceeding 60 days".
An Inspector of Post Offices will be competent to sanction leave for a period not exceeding 60 days in cases where the appointing authority is the Superintendent.
- (2) During leave, every ED Agent should arrange for his work being carried on by a substitute who should be a person approved by the authority competent to sanction leave to him. Such approval should be obtained in writing.
- (3) The allowance normally payable to an ED Agent shall, during leave, be paid to the approved substitute provided by him.
- (4) No ED Agent should be permitted leave of absence for more than 90 days at a stretch which may be extended up 180 days in exceptional circumstances by the Divisional Superintendent of Post Offices. The maximum period of leave which may be sanctioned to an ED Agent in a single stretch shall not exceed 180 days. Leave of absence in excess of 180 days may be granted by Heads of Circles only in cases where the necessity for leave arises due to ED Agent officiating in a de-departmental post. The Heads of Circles have been delegated powers to sanction leave to EDAs beyond 180 days on account of genuine illness (effective 12-9-88).
- (5) If an ED Agent remains on leave for more than 180 days at a stretch, he will be liable to be proceeded against under Rule 8 of EDAs (Service and Conduct) Rules, 1964.
- (6) Leave shall not ordinarily be availed by an ED Agent at frequent intervals. If an ED Agent is found to have taken leave at frequent intervals for a total period of 180 days or more in a period of one year, he shall cease to be an ED Agent.

Rule 5(8) : Provisional appointment of substitute all absorption of ED Agent to regular departmental post.—In para 4 above, it was made clear that if an ED Agent is appointed against a regular post (departmental) such as postman, Packer, etc., and the vacancy is of a short duration, he may provide his own

substitute subject to the same conditions as in the case of ED Agent proceeding on leave. It, however, an ED Agent is appointed to a regular departmental post for an indefinite period and there is no likelihood of his returning as ED Agent, than the appointing Authority should make arrangements to fill up the post of ED Agent in the normal manner by calling for applications. When appointment of ED Agents are made in such cases, it has to be made clear that the arrangement will continue only so long as the person originally working as ED Agent and now working as Packer, Postman, etc., is not regularly appointed to the departmental post and when he is regular appointed as Packer, etc., the position will be reviewed. In case the original ED Agent has to revert back for want of vacancy in the Departmental post, he will automatically get back his job as ED Agent and his previous service as ED Agent will be taken into account for considering his title to ex-gratia gratuity after condoning his absence for the period he worked as 'Group 'D' or Postman, etc. The provisions of Para 1(5) that if an ED Agent remains on leave for more than 180 days a stretch he shall cease to be an ED Agent, are not applicable in such cases.

10. It is true that the petitioner had absented for duty at a stretch extending his absence from 21st April, 1997 to 31st October, 1997 (209 days) beyond 180 days and as per Rules, the appointing authority has to proceed with the enquiry. It is to be noted that Postal ED Staff Rules were amended on the basis of recommendations of Justice Charanjit Talwar who was appointed as Chairman of one Man Committee and on his recommendations, E. D. Rules have been formulated by modifying the earlier stringent rules in respect of Extra Departmental Agents working in the Department. By means of amended Rules, the Heads of the Circles have been delegated powers to sanction leave to E. D. Staff beyond 180 days on account of genuine illness and such powers are effective from 12-9-1988. Further under Rule 8 the provisional appointment of substitute will be made in case of E. D. Agent has gone on leave. Eventhough such a right is given it was not exercised considering the long service of the petitioner in the Department as E.D.A. for his absence to duty. If the Head of the Office refuses to receive leave application Exs. W1 to W3 sent by him through a messenger the persons concerned will be undone and helpless. In order to protect rights of such unfortunate, E.D.A. staff, rules have been amended which are not taken into consideration at all. Thus on an over all view of the rules, it is clear that the absence for duty exceeding 180 days, is to be sanctioned as leave without pay by invoking amended Rule 5 which came into effect from 12-9-1988 onwards. Thereby the petitioner is entitled to the benefit given under the Rules. The removal order is dated 21-4-1998 and since the rules have retrospective effect from 12-9-1988, the petitioner is entitled to claim the benefit for sanction of leave eventhough he absented for duty over and

above 180 days. The concerned Authority has failed to exercise proper discretion in the matter. While adjudicating the dispute, the workman has right to invoke Section 11-A of the I.D. Act and considering the factual aspects and circumstances of the case, this Tribunal may take sympathetic view in ordering the reinstatement. On account of absence, the petitioner is a looser and suffered loss of pay and also he became a junior to the other staff for promotion which disadvantage is a punishment to him for his absence for duty. So no further punishment is required. Apart from it, all the while he faced financial crisis and difficulty which itself is a lesson to him to attend for duty in future regularly without deviating rules. Hence it is reasonable to reinstate him into service without the benefits of back wages.

11. In the result, an award is passed setting aside the impugned order of removal dt. 21-4-1998 (Ex. W12) passed by the 2nd respondent and directing the respondent to reinstate the petitioner into service with continuity of service. The petitioner is not entitled to service benefits and back wages. He shall be reinstated into service within 30 days from the date of Publication of this Award.

Dictated to the Steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal on this the 31st day of October, 2000.

SYED ABDULLAH, Industrial Tribunal-I

APPENDIX OF EVIDENCE

No oral evidence is adduced on either side.

Documents marked for the Petitioner :

- Ex. W1—Leave letter dt. 2-4-97 submitted by the petitioner.
- Ex. W2—Leave letter dt. 1-7-97 submitted by the petitioner.
- Ex. W3—Leave letter dt. 30-7-97 submitted by the petitioner.
- Ex. W4—Xerox copy of Medical Certificate of sickness and fitness of the petitioner.
- Ex. W5—Representation dt. 10-11-97 submitted by petitioner.
- Ex. W6—Memo dt. 26-12-97 issued to the petitioner.
- Ex. W7—Memo dt. 30-12-97 issued to the petitioner.
- Ex. W8—Representation dt. 5-1-98 of the petitioner.
- Ex. W9—Enquiry Proceedings including findings of the E.O.
- Ex. W10—Letter dt. 13-3-98 from the Head Record Officer to the petitioner.
- Ex. W11—Representation dt. 30-3-98 submitted by the petitioner.
- Ex. W12—Termination order dt. 21-4-98 issued to the petitioner by the Head Record Officer, Vijayawada.
- Ex. W13—Representation of the petitioner to the Labour Commissioner, Vijayawada.

Ex. W14—Representation dt. 22-7-1998 submitted by the petitioner to the Regl. Post Master General, Vijayawada.

Ex. W15—Conciliation failure report dated 30-9-98 submitted by ALC(C).

Documents marked for the Respondents : Nil.

नई दिल्ली, 7 दिसम्बर, 2000

का. अं. 2788.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैथोलिक सीरियन बैंक लि. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पलक्काड के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-12-2000 को प्राप्त हुआ था।

[सं० एल-12011/29/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th December, 2000

S.O. 2788.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Palakkad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Catholic Syrian Bank Ltd. and their workman, which was received by the Central Government on 6th December, 2000.

[No. L-12011/29/99-IR(BI)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL,
PALAKKAD

(Monday, the 6th November, 2000

PRESENT :

Sri. B. Ranjit Kumar, Industrial Tribunal.
Industrial Dispute No. 135/99 (C)

BETWEEN

The Chairman, The Catholic Syrian Bank Limited, Head Office, Trichur-680 020.
(By Adv. M. Venugopalan)

AND

The General Secretary, The Catholic Syrian Bank Staff Association, 47-Unity Bldgs., Mannadiar Lane, P.B. No. 114, Trichur-4.

(By Adv. K. K. Fremlal)

WITH

Industrial Dispute No. 150/99 (C)

BETWEEN

The Chairman, Catholic Syrian Bank Ltd., Head Office, Trichur,

(By Adv. M. Venugopalan)

AND

The General Secretary, Catholic Syrian Bank Employees' Union, Central Office, Vimala Bldg., P.B. No. 4, Thrissur-680 001.

(By Advs. Sreekumar Puthezhath & K. G. Bhadrans)

COMMON AWARD

The Catholic Syrian Bank Staff Association (For Short CSBSA) raised an issue regarding transfer policy and the Government of India, Ministry of Labour referred the said issue for adjudication to "Labour Court, Palakkad" vide Order No. L-12011/29/99/IR-(B.I) dt. 24-8-99. No such Labour Court is in existence and the Government of India as per Corrigendum Notification dated 7-10-99 ordered that the issue has been referred to this Tribunal. On receipt of the said notification, this industrial dispute was registered as I.D. No. 135/99(C) and posted for further proceedings.

2. While I.D. No. 135/99(C) was pending adjudication, the Government of India as per Order No L-12011/28/99/IR (B-I) dated 11-11-1999, referred to this Tribunal another dispute raised by another union viz. Catholic Syrian Bank Employees' Union (For short CSBEU) regarding formulating a clearcut transfer policy covering the employees who are working within 150 Kms distance from the Bank's Head Quarter. This second dispute was registered as I.D. No. 150/99(C).

3. The management in its written statement dated 26-6-2000 filed in I.D. No. 150/99(C) prayed that since the subject matter involved in these two disputes is transfer policy of the Bank, the same may be jointly tried and a common award be passed. It was, therefore, decided to adjudicate these two industrial disputes together and the same are disposed of by this common award.

4. The issues referred for adjudication as per the reference orders issued by the Government of India are the following:—

- (1) "Whether the existing policy of transfer of the management of the Catholic Syrian Bank Ltd. is just, fair and transparent? If not, what improvements are suggested by the Court in this regard."
- (2) "Whether the action of the management of the Catholic Syrian Bank Ltd. in denying to formulate clearcut transfer policy covering the employees who are working below 150 Kms. distance from Bank's Headquarters is justified? If not, what relief the employees are entitled to?"

5. The pleadings of the CSBSA contain in its claim statement dated 3-1-2000 and that of the CSBEU in its claim statement dated 5-3-2000 and the rejoinder dated 10-7-2000. The management has filed separate written statements dated 17-1-2000 and 26-6-2000 in both the cases.

6. No oral evidence has been adduced by the parties in these disputes. The management produced Ext. M1 circular dated 15-6-95. The CSBSA produced certain representations submitted to the management in which they have pointed out certain anomalies and grievances in the matter of transfers effected in 1998 and 1999 and they have been marked as Ext. W1 to W16,

CSBEU has not produced any documents.

7. Ext. M1 is a circular which contains certain guidelines for transfer. It appears that this is the only document evidencing the transfer policy of the management. From the pleading of the parties, it is observed that they want some improvements to be made to this transfer policy. But, there are certain differences between the management and the unions which have to be settled in these adjudication proceedings.

8. According to management, the transfers are normal incidents of the working of a bank and they must be left to the discretion of those who guide the policy of the bank and manage its affairs. It is submitted by the management that transfers are not effected on considerations other than the needs of administration and such transfer affects only a small number of persons when compared with the total employment strength. There can be no doubt that it is the prerogative of the management to deploy its staff members in its various branches according to exigencies of work. However, I am of the view that a clearcut transfer policy will help to maintain industrial peace. Such a transfer policy is also necessary for the smooth functioning of the management-bank which is having a number of branches spread over throughout the nation. A transparent transfer policy would definitely avoid apprehensions among its employees that transfers were effected arbitrarily and discriminatorily.

9. The unions have submitted certain suggestions for framing a transfer policy for the management-bank. The management has accepted some of these suggestions. I feel that the suggestions of the unions which have been accepted by the management need not be discussed here. I shall consider the other suggestions of the unions which the management has opposed.

10. Though the CSBSA has suggested in its claim statement that the transfer from one cluster to another shall be based on service seniority, at the time of final hearing, the learned counsel for CSBSA accepted the counter suggestion of the management that the transfer shall be based on cluster seniority.

11. Both the unions have suggested to fix certain periods for transfer from one cluster to another. As per Ext. M1 circular, management has decided that the clerical staff who have been transferred to branches/offices at distances of 150 Kms and above will be brought back to their favourable cluster on completion of two years of active service. Both the unions have accepted this norm. The difference of opinion is in framing norms for transfers between the clusters within 150 Kms. As per the issue referred for adjudication in I.D. No. 150(99)(C) the demand of CSBEU is for a transfer policy covering the employees who are working within 150 Kms distance from Bank's Headquarters. This is a bank having branches all over India and hence as rightly pointed out by the management, a transfer policy as demanded above will not be in the interest of the bank. If such a policy is framed that will lead to a position that it will not be possible to transfer an employee beyond the distance of 150 Kms from its Headquarters. I, therefore, find that this demand of CSBEU is totally unjustified.

12. However, I find that the demands of the unions to fix certain periods for transfer from one cluster to another is only reasonable. It was submitted at the

Bar that the members of award staff are not bound to reside near the branch/office where they are working. Almost all cities, towns and villages in our country are now commutable with public conveyances. Therefore there will not be any difficulty for the employees of the management-bank to reach their place of work while residing within 100 Km from the respective branch/office. Moreover, in view of the existing norm as contained in Ext. M1 circular, the employees can opt places 150 Kms and above and after working there for two years, they can come to their favourable cluster. Therefore, I feel that only two clusters need be fixed i.e. (1) between 100 Km and 150 Km and (2) above 150 Kms. Both the unions have suggested three years for the cluster between 100 Km and 150 Km. But in Ext. W9 letter dated 8-5-98 CSBSA requested to reduce the period of service from 5 years to 4 years for this cluster. I feel that 4 years is a reasonable period.

13. I do not find any substance in the objection raised by the management against the suggestion of CSBSA that the employees should be given a chance to select the place away from his favourable cluster. There will not be any difficulty to effect transfer to a place opted by the employee if there is a vacancy.

14. Another difference of opinion between the CSBSA and the management is regarding publication of list of transfers. CSBSA wants the list to be published in February and effected in April/May as this will help the employees to arrange the education of their children. According to management, generally transfers are effected in April/May, but the publication of list of transfers in February will create problems, as the leave availed by the employees cannot be calculated and verified in the month of February. I do not find any force in this submission made by the management. Since the transfers are effected only in April/May i.e. after the commencement of the Financial year, there will not be any difficulty in ascertaining the leave availed of by the employees during their service in the transfer or branch/office in previous financial year. The management-bank is liable to prepare Profit and Loss A/C on quarterly basis and hence I do not find any substance in the submission of the learned counsel for the management that the need of the staff strength, the financial position of the branch, the volume of business transactions etc. can be ascertained only at the end of the financial year. I am of the view that the demand of the CSBSA for publication of list of transfer in February should be accepted.

15. In reply to the demand of the CSBSA that those who are above 50 years should be retained in their favourable cluster, the management submits that the existing practice is that male employees above 50 years of age and female employees above 45 years are not transferred beyond the favourable cluster. I am of the view that this existing practice should be retained.

16. The management has seriously objected to the demand of CSBSA that the President, Vice-President, General Secretary, Secretary, Joint Secretaries, Treasurer and Assistant Treasurer of the union should be retained in their requested branches during their claim of office. According to management, certain guidelines have already been accepted in Sastry Award and the present demand of CSBSA for the

above benefit for a number of office-bearers cannot be agreed upon. As per para 535 of Sastry Award, this privilege is given only to President, Vice-President and Secretary of the union. The norms for the transfer of these office-bearers adopted in Sastry Award are exactly the same that were formulated in Desai Award. There can be no doubt that the management will be put to difficulties if a large number of office-bearers of the unions are permitted to work in a particular branch/office according to their choice and convenience. Every employee is paid by the Bank for doing work for the bank and not for union activities. Therefore, the office-bearers of the unions should also be liable to be transferred from one cluster to another according to exigencies of work. However, as recommended in the Sastry Award and Desai Award some privilege of exemption in the matter of transfer to a limited member of office-bearer viz. President, Vice-President and Secretaries may be given.

17. The another demand of CSBSA is that all the sub-staff working outside language area should be brought back to their language area. It is submitted by the management that sub-staff are not transferred beyond their language area. According to management, the demand to bring back sub-staff working beyond the language area cannot be accepted in case they were recruited from places outside their language area or transferred on their request. The learned counsel for the management submitted that there are instances where the sub-staff had sought employment by showing their place of domicile outside Kerala in their employment application. According to him, having entered in service by making such a representation, they cannot claim for a transfer to their language area. I find considerable force in the above submissions made on behalf of the management.

18. Regarding compassionate transfer also there is difference between the unions and the management. According to CSBSA apart from the sickness of the concerned employee, the sickness of other family members, namely parents, spouse and children should also be given consideration for a favourable transfer. According to management, as far as possible the Bank used to consider genuine cases of such demands as far as the sickness of the employee alone is concerned. I feel that it is only reasonable to sympathetically consider the sickness of the spouse and children who are suffering from serious diseases like Cancer, heart disease or such other malignant diseases which require special treatment and attention of the concerned employee for a favourable transfer. If the employee convinces the management that he/she is the only son/daughter available in India to look after his/her ailing parents, the compassionate transfer may be considered in that case also.

19. Yet another demand of CSBSA which the management has opposed is that the grievances of the employees in the matter of transfer should be considered by a Senior Officer not below the rank of a Deputy General Manager. The learned counsel for the management submitted that the present practice is that these grievances are redressed by a Chief Manager and the said practice can be followed. According to management, the services of a Deputy General Manager cannot be spared for this purpose.

It is also submitted by the counsel for the management that transfers are effected by a Committee consisting of Chairman, General Manager (Operations) and Deputy General Manager (Development) and hence further consideration by a Deputy General Manager is unwarranted. I feel that it will not be proper to review the decision of Transfer Committee by a Deputy General Manager or a Chief Manager. I am of the view that the grievances of the employees in the matter of transfer shall be redressed by the Transfer Committee itself. This exercise shall be completed before 31st March.

20. Having considered the various suggestions and counter suggestions put forward by the parties in these industrial disputes, this Tribunal submits the suggestions for transfer of the employees of the management in Appendix-I and reference orders in both the cases are answered accordingly.

Dated this the 6th day of November, 2000.

B. RANJIT KUMAR, Industrial Tribunal,

APPENDIX-I

GUIDELINES FOR TRANSFER OF AWARD STAFF

(i) The declaration regarding domicile submitted by an employee at the time of joining the service shall be irrevocable. However, the ladies may be given an opportunity for submitting a fresh declaration in this regard after marriage.

(ii) Regionally recruited Clerk/Cashier/Typist shall be transferred within their region only. The regions shall be as follows :—

Region 1—Kerala.

Region 2—Tamilnadu, Karnataka.

Region 3—Other States.

(iii) The area covering 40 Km. radius from the place of domicile of an employee shall be treated as a favourable cluster.

(iv) The employees who had worked at places above 150 Kms from their domicile shall be brought back to their favourable cluster after working for two years and persons working at places between 100 and 150 Kms shall be brought to the favourable cluster after working for four years.

(v) As far as possible the transfer outside the favourable cluster may be effected to a branch/office opted by the employee subject to availability of vacancy.

(vi) On return of an employee from unfavourable cluster to his favourable cluster, which is effected only on the employee's request, the employee who had continuously worked more in that favourable cluster shall go first.

(vii) During the period of service in the unfavourable cluster, if the employee concerned had availed of more leave than that is accumulated during that period, he/she had to work in that area for more days to compensate the excess leave thus availed of.

(viii) On implementing this transfer policy, the employees' past service in favourable/unfavourable cluster shall be taken into consideration first.

(ix) The male employees who are aged above 50 years and female employees above 45 years may be retained in their favourable cluster.

(x) The transfer of President, Vice-President and the Secretary of the union shall be in accordance with the following norms adopted in para 535 of Sastry Award.

- (1) Every registered bank employees' union from time to time, shall furnish the bank with the names of the President, Vice-President and the Secretaries of the union.
- (2) Except in very special cases, whenever the transfer of any of the above mentioned office bearers is contemplated at least five clear working days' notice should be put up on the notice boards of the bank of such contemplated action.
- (3) Any representations written or oral, made by the union shall be considered by the bank;
- (4) If any order of transfer is ultimately made, a record shall be made by the bank of such representations and the banks' reasons for regarding them as inadequate; and
- (5) The decision shall be communicated to the union as well as to the employee concerned.

(xi) The sub-staff who were transferred beyond their language area without their willingness may be brought back in their respective language area.

(xii) The management may consider the request for compassionate transfer on the ground of sickness to the concerned employee or his/her spouse and children. The management may also consider the request for transfer on the ground of sickness of the parents of the employee, provided that the employee satisfies the bank that he/she is the only son/daughter available in India to look after his/her ailing parents. In all these cases the employee shall produce the medical certificate or any other document to the satisfaction of the management that his/her spouse, children or parents as the case may be, are suffering from serious diseases like cancer, heart diseases or such other malignant diseases.

(xiii) The transfer from unfavourable cluster to favourable cluster shall be effected only on request of the concerned employee.

(xiv) As far as possible in the case of transfer of employees other than regional recruits, the distance of transfer to other regions may be minimum from the employees place of domicile.

(xv) Those who have worked for two years in the hilly areas like Munnar, Manathody, Kalpetta,

Wyanad, Sulthan Bathery, Gudaloor etc. shall be given favourable transfer on request.

(xvi) The request letters for transfer shall be entered in a separate register maintained at the Head Office and due acknowledgement thereof shall be given to the employees.

(xvii) The list of transfers shall be published in February each year and the transfer shall be effected before the end of May in that year.

(xviii) The transfer Committee consisting of Chairman, General Manager, (Operations) and Deputy General Manager (Development) or such other members shall consider the complaints regarding transfers and if necessary review the transfer orders. The complaints in this regard shall be submitted before 15th March and the Transfer Committee shall dispose of the complaints and communicate its decision to the complainant-employee before 15th April every year.

6th November, 2000.

B. RANJIT KUMAR, Industrial Tribunal.

APPENDIX-II

Witnesses examined on the side of Management—
Nil.

Witnesses examined on the side of Unions.—Nil.
Documents marked on the side of Management:—

Ext. M1—Circular dated 15th June, 1995.

Documents marked on the side of Unions.

Ext. W1—Letter dated 22-2-1999 from CSBSA to Management.

Ext. W2—Letter dated 22-2-1999 from CSBSA to Management.

Ext. W3—Letter dated 10-2-1999 from CSBSA to Management.

Ext. W4—Letter dated 10-2-1999 from CSBSA to Management.

Ext. W5—Letter dated 10-2-1999 from CSBSA to Management.

Ext. W6—Letter dated 29-1-1999 from CSBSA to Management.

Ext. W7—Letter dated 20-1-1999 from CSBSA to Management.

Ext. W8—Letter dated 22-8-1998 from CSBSA to Management.

Ext. W9—Letter dated 8-5-1998 from CSBSA to Management.

Ext. W10—Letter dated 15-4-1998 from CSBSA to Management.

Ext. W11—Letter dated 14-5-1997 from CSBSA to Management.

Ext. W12—Letter dated 13-5-1997 from CSBSA to Management.

Ext. W13—Letter dated 5-4-1997 from CSBSA to Management.

Ext. W14—Letter dated 29-5-1996 from CSBSA to Management.

Ext. W15—Letter dated 4-6-1996 from CSBSA to Management.

Ext. W16—Letter dated 1-11-1995 from CSBSA to Management.

नई दिल्ली, 7 दिसम्बर, 2000

का. आ. 2789.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इन्दौर के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-12-2000 को प्राप्त हुआ था।

[सं. एल-12012/238/95-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th December, 2000

S.O. 2789.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Indore and their workman, which was received by the Central Government on 6 December, 2000.

[No. L-12012/238/95-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/IR/72/97

PRESIDING OFFICER : Shri K. M. Rai

Shri Anil Awasthy,
through General Secretary,
State Bank of Indore Employees Union,
Indore. ... Applicant

Versus

The G. M.,
State Bank of Indore,
Indore. ... Non-applicant

AWARD

Delivered on this 27th day of November, 2000

1. The Government of India, Ministry of Labour vide order No. L-12012/238/95 dated 5-3-97 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of State Bank of Indore in relation to their P. Y.

3354 GI/2000—10

Road Branch, Indore in stopping the annual increment with cumulative effect of Shri Anil Awasthi Peon-cum-Fraser is legal and justified? If no, to what relief the workman is entitled to?”

2. The workman filed application praying for rejecting his claim as no dispute between the parties exists. The application was read over to the workman who accepted the contents and signature of the same.

3. In view of the workman's application, it appears that no dispute between the parties exists. Hence No Dispute Award is being passed. Parties shall bear their own cost. Reference is accordingly answered.

4. Copy of award be sent to the Govt. of India, Ministry of Labour as per rules.

K.M. RAI, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2000

का. आ. 2790.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/87/2000-आई आर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2790.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom. and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/87/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI
Tuesday, the 21st November, 2000

PRESENT:

K. KARTHIKEYAN, Presiding Officer.

Industrial Dispute No. 10/2000

(In the matter of the dispute for adjudication under Section 10(1)(d) & Sub-section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom. Tamilnadu Circle, Chennai)

BETWEEN

Sh. N. Murugan
S/o R. Natarajan

Claimant/I Party

AND

The Chief General Manager
Deptt. of Telecom.
Tamilnadu Circle,
Chennai.

Management/II Party

APPEARANCE:

For the Workman—M/s. M. Gnanasekar and C. Premavathy, Advocates.

For the Management—Shri K. Sivajothi, Addl. Central Government Standing Council.

REFERENCE: Order No. L-40012/87/2000/IR(DU) dated 30-5-2000, Government of India, Ministry of Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the arguments of the counsel for the workman, Sh. M. Gnanasekar and Sh. K. Sivajothi Addl. Central Government Standing Council for the Management and this dispute having stood over till this date for consideration this tribunal passed the following:—

AWARD

This reference by Central Government in the exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of dispute between Shri N. Murugan, workman and the Chief General Manager, Telecom, T. N. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows:

"Whether the termination of Shri N. Murugan by the Department of Telecom, Chennai is legal and justified? If not, to what relief the workman is entitled?"

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 26-6-2000 as Industrial Dispute No. 10/2000. On receipt of the notice from this tribunal, both the parties appeared with their respective counsel and filed their respective Claim Statement and Counter Statement.

2. The averments of the Claim Statement of the Workman/ I Party are briefly as follows:—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan AHE insulation, Chennai. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95. The Petitioner was paid on daily rate basis and he received a salary of Rs. 1650 per month. Thereafter, he was engaged in muster roll in the Trichy Telephone Exchange. Thereafter, he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom, Tamilnadu Circle and also sent a reminder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approached the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating his services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted, before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perenial in nature. Therefore, when the work and necessity to engage the Petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fail to yield any result.

The Supreme Court has held the telecommunication Department as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act, 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is in violation of 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I.D. Act. Thereafter the termination of his services without any notice or compensation is ab initio void and the Petitioner is deemed to be in continuous service and therefore he is entitled to be reinstated with all other service benefits including arrears of back wages. The Respondent ought to have conferred temporary status as per the temporary status scheme, and to be absorbed against regular 'D' Post. Not doing so is illegal and arbitrary. The Petitioner file a petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-03-95 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy except to approach this tribunal for redressal. The Petitioner is entitled for reinstatement in service. Therefore, this tribunal may be pleased to pass an award declaring the order of termination dated 31-03-95 as illegal and arbitrary and consequently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-03-95 and further direct the Respondent to pay all arrears of back wages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows:—

The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (Newtech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989, a scheme called 'Grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-85. (ii) he should be currently employed on the date of implementation of the scheme i.e., on 1-10-89 and, (iii) he should have put two hundred and forty days continuous service in any one of the preceeding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Dept. was not an industry. The Petitioner has not submitted any record to prove his continuous service in the Dept. His initial entry in the Dept. is also not known. Since the Petitioner was not a TSM Status mazdoor which is a prerequisite for regularisation as Group 'D', the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commissioner for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hands and therefore the petition has to be dismissed in limini. Therefore this tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that similar case covered under that joint memo. The said joint

memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Sh. V. Vajjiram has been examined as the only witness for the Petitioner as W.W. 1. Six documents are marked on the Petitioner's side as Ex. Nos. W1 to W6. On the side of the H Party/Management one Divisional Engineer, Deptt. of Telecom Sh. M. Shanmugiah is examined as MW1. No documents have been exhibited on the side of the Management. Subsequent to the evidence on either side was closed, the arguments advanced by the counsel for either side was heard.

5. The Point for my consideration is:—

“Whether the termination of Sri N. Murugan by the Department of Telecom, Chennai is legal and justified? If not, to what relief the workman is entitled?”

Point: It is admitted that the Petitioner was engaged by the Respondent on 17th April, 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Labour from 17-4-94 to 10-1-95, it is not stated that they were engaged by the Respondent continuously for the installation work. WW1, Shri V. Vajjiram, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1, no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Deptt. of Telecom, Tamil Nadu Circle dt. 25-9-95, he has stated that DE, AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this averment, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation. Shri M. Shanmugiah, Divisional Engineer, Deptt. of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95 and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that “the work is over, you can go home and you may be called back as and when we require Workmen for our next installation work”. So, from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the version of WW1 that he along with other Petitioners joined the services as Casual Mazdoor in January 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work ever since they joined as Casual Mazdoor, is incorrect.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub-Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour

of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Murugan, A. Nandakumar, A. Sampath and K. Nagarajan were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex W1 that the labourers N. Murugan, S. Devan and S. Velu were engaged for installation work at Trichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the Petitioner to prove that they have put in service for a continuous period of more than 275 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect. MW1 has admitted in his evidence that the Department has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January 1995 to March 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose, ban on recruiting casual labourers was introduced on 31-3-1985 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period, their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by WW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself, it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request, the department removed them from the job. He has further affirmed that as they refused to work as Contract labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these, it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on Temporary contingent basis and these Petitioners were employed as Casual Labourers and they were paid Rs. 55/- per day for the period they were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this, it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Petitioners have not satisfied any condition which require under the scheme called “Grant of Temporary Status to Casual Labourers” introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual labourer should have been engaged prior to 31-3-85 (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put 240 days continuous service in any one of the preceding years prior to 1-10-89. As per the contention of the Department and as per the evidence of MW1, these Petitioners have not satisfied the condition under the above-said scheme. So, for want of pre-requisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service,

without any break, for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the petitioner had advanced an argument that the work at Madurai started in January 1995 was completed in November 1995 and as such there was necessity for the Department to engage the Petitioners in November 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioners, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are Workmen within the meaning of Section 2(S) of Industrial Disputes Act and since these people were engaged as unskilled labourers, they satisfied the definition of workers under Section 25(F) of the Industrial Disputes Act, one month notice giving reasons for retrenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioners are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractors, it must be held that their termination is unjustified. For this, the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section-25(F) of Industrial Disputes Act, 1947. If at all, these Casual Labourers can only come under the ambit of Section-2(cc)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner Workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned posts or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has argued that in the absence of any administrative instructions for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgement rendered by the Hon'ble High Court of Madras reported as 2000-II-LLJ, Page 326, "Tamil Nadu Civil Supplies Corporation Employees Union and others vs. Tamil Nadu Civil Supplies Corporation Ltd. and another". It is held that judgement that when the work is of casual nature, in the absence of any post either under the statutory rule or by mere administrative instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment of Casual Labourer was in force, these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department, these Petitioners were not given further work because of the ban, and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1998-II-LLJ, Page 627, "Municipal Corporation of Bilaspur and another vs. Vir Singh Rajput and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular, there cannot be any regularisation of service. Here, in this case also, there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no

work available for engaging these Petitioners as Casual Labourers further for considerable time. Hence, the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case alongwith the evidence let in, this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Deptt. of Telecom is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner Workman is not entitled to any relief as the termination of his services by the Deptt. of Telecom. Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day, the 21st November, 2000.

K KARTHIKEYAN, Presiding Officer

WITNESS EXAMINED :

For Claimant/I Party : WW1, Sri V. Vajjiram.

For Management/II Party : MW1, Sri M. Shanmugiah.

DOCUMENTS MARKED :

For Claimant/I Party :

Ex. W1 — Certificate for the engagement of Mazdoors in Work—reg.

Ex. W2 — Certificate for the engagement of Mazdoors in work.

Ex. W3 25-9-95 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W4 — Acknowledgement of W3.

Ex. W5 31-10-97 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W6 — Acknowledgement of W5.

Ex. W7 — Certificate for the engagement of Mazdoors in work.

For the Management/II Party : None.

नई दिल्ली, 1 दिसम्बर, 2000

का. आ. 2791.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार के दूर संचार विभाग के प्रबन्धतन्त्र के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/123/2000-आई आर (डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2791.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom. and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/123/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 21st November, 2000

PRESENT:

K. Karthikeyan, Presiding Officer.

INDUSTRIAL DISPUTE NO. : 22/2000

(In the matter of the dispute for adjudication under Section 10(1)(d) and Sub-section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom, Tamilnadu Circle, Chennai).

BETWEEN

Shri A. Nandakumar,
S/o T. Arumugham

Claimant/I Party

AND

The Chief General Manager
Deptt. of Telecom.
Tamil Nadu Circle
Chennai

Management/II Party

APPEARANCE :

For the Workman : M/s. M. Gnanasekar and C. Premavathy, Advocates.

For the Management : Shri K. Sivajothi, Addl. Central Govt. Standing Council.

REFERENCE :

Order No. L-40012/123/2000/IR(DU) dated 30-6-2000, Government of India, Ministry of Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the argument of the counsel for the workman, Shri M. Ganasekar and Shri K. Sivajothi Addl. Central Government Standing Council for the Management and this dispute having stood over till this date for consideration this tribunal passed the following :—

AWARD

This reference by Central Govt. in the exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of the Industrial Disputes Act, 1947 in respect of dispute between Shri A. Nandakumar, workman and the Chief General Manager, Telecom, T. N. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows :

"Whether the termination of Shri A. Nandakumar by the Department of Telecom Chennai is legal and justified? If not, to what relief the workman is entitled?"

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 27-7-2000 as Industrial Dispute No. 22/2000. On receipt of the notice from this tribunal both the parties appeared with their respective counsel and filed their respective Claim Statement and Counter Statement.

2. The averments of the Claim Statement of the Workman/I Party are briefly as follows :—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan AHE insulation, Chennai. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95. The Petitioner was paid on daily rate basis and he received a salary of Rs. 1650 per month. Thereafter, he was engaged in muster roll in the Trichy Telephone Exchange. Thereafter he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom,

Tamilnadu Circle and also sent a reminder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approach the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating this services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted. Before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re-engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perinial in nature. Therefore, when the work and necessity to engage the Petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fail to valid any result. The Supreme Court has held the Telecommunication Deptt. as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is inviolation of 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I.D. Act. Therefore the termination of his services without any notice or compensation is ab initio void and the Petitioner is deemed to be in continuous service and therefore he is entitled to be reinstated with all other service benefits including arrears of back wages. The Respondent ought to have conferred temporary status as per the temporary status scheme and to be absorbed against regular 'D' Post. Not doing so is illegal and arbitrary. The Petitioner file a petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-3-95 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy except to approach this tribunal for redressal. The Petitioner is entitled for reinstatement in service. Therefore this tribunal may be pleased to pass an award declaring the order of termination dated 31-3-95 as illegal and arbitrary and consequently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-3-95 and further direct the Respondent to pay all arrears of back wages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows :—

The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (Newtech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989, a scheme called 'Grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put two hundred and forty days continuous service in any one of the preceding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Dept. was not an industry. The Petitioner has not submitted

any record to prove his continuous service in the Dept. His initial entry in the Dept. is also not known. Since the Petitioner was not a ISM Status mazdoor which is a prerequisite for regularisation as Group 'D', the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commission for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hands and therefore the petition has to be dismissed in limine. Therefore this tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that smaller case covered under that joint memo. The said joint memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Sri V. Vajjiram has been examined as the only witness for the Petitioner as W.W. 1. Six documents are marked on the Petitioner's side as Ex. Nos. W.1 to W.6. On the side of the II Party/Management one Divisional Engineer, Dept. of Telecom, Sri M. Shanmugiah is examined as M.W.1. No documents has been exhibited on the side of the Management. Subsequent to the evidence on either side was closed, the arguments advanced by the counsel for either side was heard.

5. The point for my consideration is:—

"Whether the termination of Sri A. Nandakumar by the Department of Telecom is legal and justified? If not, to what relief the workman is entitled?"

Point: It is admitted that the Petitioner was engaged by the Respondent on 17th April, 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Labour from 17-4-94 to 10-1-95, it is not stated that they were engaged by the Respondent continuously for the installation work. WW1, Sri V. Vajjiram, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1, no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Department of Telecom, Tamil Nadu Circle dated 25-9-95, he has stated that DE, AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this avement, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation. Sri M. Shanmugiah, Divisional Engineer, Department of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95 and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that "the work is over, you can go home and you may be called back as and when we require Workmen for our next installation work". So, from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the version of WW1 that he alongwith other Petitioners joined the services as Casual Mazdoor in January 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work even since they joined as Casual Mazdoor, is incorrect.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and

not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Munugan, A. Nandakumar, A. Sampath and K. Nagarajan were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex. W1 that the labourers N. Munugan, S. Devan and S. Velu were engaged for installation work at Trichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the Petitioner to prove that they have put in service for a continuous period of more than 275 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect. MW1 has admitted in his evidence that the Department has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January 1995 to March 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose, ban on recruiting casual labourers was introduced on 31-3-1985 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period, their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by WW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself, it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request, the department removed them from the job. He has further affirmed that as they refused to work as Contract Labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these, it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on Temporary contingent basis and these Petitioners were employed as Casual Labourers and they were paid Rs. 55 per day for the period they were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this, it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Petitioners have not satisfied any condition which require under the scheme called "Grant of Temporary Status to Casual Labourers" introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual Labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89, and (iii) he should have put 240 days continuous service in any one of the preceding years prior to 1-10-89.

As per the contention of the Department and as per the evidence of MW1, these Petitioners have not satisfied the condition under the abovesaid scheme. So, for want of prerequisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service, without any break, for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the Petitioner had advanced an argument that the work at Madurai started in January 1995 was completed in November 1995 and as such there was necessity for the Department to engage the Petitioners till November 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioner, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are Workmen within the meaning of Section 2(S) of Industrial Disputes Act and since these people were engaged as unskilled labourers, they satisfied the definition of workers under Section 25(F) of Industrial Disputes Act, one month notice giving reasons for retrenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioner are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractual, it must be held that their termination is unjustified. For this, the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section 25(F) of Industrial Disputes Act, 1947. If at all, these Casual Labourers can only come under the ambit of Section 2(a)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner Workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned posts or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has argued that in the absence of any administrative instructions for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgement rendered by the Hon'ble High Court of Madras reported as 2000-II-LLJ, Page 326, "Tamil Nadu Civil Supplies Corporation Employees Union and others vs. Tamil Nadu Civil Supplies Corporation Ltd. and another". It is held in that judgement that when the work is of casual nature, in the absence of any post either under the statutory rule or by mere administrative instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment of Casual Labourer was in force, these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department, these Petitioners were not given further work because of the ban, and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1998-II-LLJ, Page 627, "Municipal Corporation of Bilaspur and another vs. Vir Singh Rajput

and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular, there cannot be any regularisation of service. Here, in this case also, there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no work available for engaging these Petitioners as Casual Labourers further for considerable time. Hence, the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case alongwith the evidence let in, this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Department of Telecom is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner Workman is not entitled to any relief as the termination of his services by the Department of Telecom, Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day, the 21st November, 2000.

K. KARTHIKEYAN, Presiding Officer

Witness Examined :

For Claimant/I Party: WW1, Sri V. Vajjiram

For Management/II Party: MW1, Sri M. Shanmugiah

Documents Marked :

For Claimant/I Party :

Ex. W1 — : Certificate for the engagement of Mazdoors in Work—reg.

Ex. W2 — : Certificate for the engagement of Mazdoors in work.

Ex. W3 25-9-95 : Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W4 — : Acknowledgement of W3.

Ex. W5 31-10-97 : Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W6 — : Acknowledgement of W5.

Ex. W7 — : Certificate for the engagement of Mazdoors in work.

For the Management/II Party : None.

नई दिल्ली, 1 दिसम्बर, 2000

का. आ. 2792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच, अन्वंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/126/2000-आई आर (डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2792.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the

Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/126/2000-IR(DU)]
KULDIP RAI VERMA, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI
Tuesday, the 21st November, 2000

PRESENT :

K. KARTHIKEYAN, Presiding Officer
Industrial Dispute No. 21/2000

(In the matter of the dispute for adjudication under Section 10(1)(d) and Sub-Section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom, Tamilnadu Circle, Chennai).

BETWEEN

Sh. S. Devan,
S/o P. Sundaram.

Claimant/I Party

AND

The Chief General Manager,
Department of Telecom,
Tamilnadu Circle,
Chennai.

Management/II Party

APPEARANCE :

For the Workman : M/s. M. Gnanasekar and C. Premavathy, Advocates.

For the Management : Shri K. Sivajothi, Addl. Central Government Standing Counsel.

REFERENCE :

Order No. L-40012/126/2000-IR(DU) dt. 30-6-2000.
Government of India, Ministry of Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the arguments of the counsel for the workman, Sh. M. Gnanasekar and Sh. K. Sivajothi Addl. Central Government Standing Counsel for the Management and this dispute having stood over till this date for consideration this tribunal passed the following :—

AWARD

This reference by Central Government in the exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of dispute between Shri S. Devan, workman and the Chief General Manager, Telecom, T. N. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows :

"Whether the termination of Shri S. Devan by the Department of Telecom, Chennai is legal and justified? If not, to what relief the workman is entitled?"

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 27-7-2000 as Industrial Dispute No. 21/2000. On receipt of the notice from this tribunal, both the parties appeared with their respective counsel and filed their respective Claim Statement and Counter Statement.

2. The averments of the Claim Statement of the Workman/I Party are briefly as follows :—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan AHE insultation, Chennai. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95. The

Petitioner was paid on daily rate basis and he received a salary of Rs. 1650 per month. Thereafter, he was engaged in muster roll in the Trichy Telephone Exchange. Thereafter, he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom, Tamilnadu Circle and also sent a remainder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approach the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating his services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted, before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re-engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perinial in nature. Therefore, when the work and necessity to engage the Petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fail to yield any result. The Supreme Court has held the telecommunication Department as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act, 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is in violation of 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I.D. Act. Therefore the termination of his services without any notice or compensation is abinitio void and the Petitioner is deemed to be in continuous service and therefore he is entitled to be reinstated with all other service benefits including arrears of backwages. The Respondent ought to have conferred temporary status as per the temporary status scheme, and to be absorbed against regular 'D' Post. Not doing so is illegal and arbitrary. The Petitioner file a petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-03-95 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy except to approach this tribunal for redressal. The Petitioner is entitled for reinstatement in service. Therefore this tribunal may be pleased to pass an award declaring the order of termination dated 31-03-95 as illegal and arbitrary and consequently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-03-95 and further direct the Respondent to pay all arrears of backwages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows :—

The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (Newtech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989, a scheme called 'Grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourers should have been engaged prior to 31-3-95 (ii) he should be currently employed on the date of implementation of the scheme i.e., on 1-10-89 and (iii) he should have put two hundred and forty days

continuous service in any one of the preceeding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Department was not an industry. The Petitioner has not submitted any record to prove his continuous service in the Department. His initial entry in the Department is also not known. Since the Petitioner was not a TSM Status mazdoor when is a pre-requisite for regularisation as Group 'D' the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commissioner for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hands and therefore the petition has to be dismissed in limine. Therefore this tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that similar case covered under that joint memo. The said joint memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Sh. V. Vijirani has been examined as the only witness for the Petitioner as W.W. 1. Six documents are marked on the Petitioner's side as Ex. Nos. W. 1 to W. 6. On the side of the II Party/Management one Divisional Engineer, Department of Telecom Sh. M. Shanmugiah is examined as M.W. 1. No documents has been exhibited on the side of the Management. Subsequent to the evidence on either side was closed, the arguments advanced by the counsel for either side was heard.

5. The Point for my consideration is :—

"Whether the termination of Sri S. Devan by the Department of Telecom is legal and justified? If not, to what relief the workman is entitled?"

Point : It is admitted that the Petitioner was engaged by the Respondent on 17th April, 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Labour from 17-4-94 to 10-1-95, it is not stated that they were engaged by the Respondent continuously for the installation work. WW1, Shri V. Vajirani, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1, no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Department of Telecom, Tamil Nadu Circle dt. 25-9-95, he has stated that DE, AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this averment, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation. Shri M. Shanmugiah, Divisional Engineer, Department of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95 and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that "the work is over, you can go home and you may be called back as and when we require Workmen for our next installation work". So from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the version of WW1 that he alongwith other Petitioners joined the service as Casual Mazdoor in January 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work ever since they joined as Casual Mazdoor, is incorrect.

3354 GI/2000—11.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub-Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Murugan, A. Nandakumar, A. Sampath and K. Nagarajan were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex. W1 that the labourers N. Murugan, S. Devan and S. Velu were engaged for installation work at Trichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the Petitioner to prove that they have put in service for a continuous period of more than 275 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect. MW1 has admitted in his evidence that the Department has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January 1995 to March 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose, ban on recruiting casual labourers was introduced on 31-3-1985 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period, their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by WW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself, it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request, the department removed them from the job. He has further affirmed that as they refused to work as Contract labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these, it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on Temporary contingent basis and these Petitioners were employed as Casual Labourers and they were paid Rs. 55 per day for the period they were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this, it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Petitioners have not

satisfied any condition which require under the scheme called "Grant of Temporary Status to Casual Labourers" introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual Labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put 240 days continuous service in any one of the preceding years prior to 1-10-89. As per the contention of the Department and as per the evidence of MW1 these Petitioners have not satisfied the condition under the above said scheme. So for want of pre-requisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service, without any break, for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the Petitioner had advanced an argument that the work at Madurai started in January 1995 was completed in November 1995 and as such there was necessity for the Department to engage the Petitioners till November 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioners, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are Workmen within the meaning of Section 2(S) of Industrial Disputes Act and since these people were engaged as unskilled labourers. They satisfied the definition of workers under Section 25(F) of Industrial Disputes Act, one month notice giving reasons for retrenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioner are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractors, it must be held that their termination is unjustified. For this, the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section 25(F) of Industrial Disputes Act, 1947. If at all, these Casual Labourers can only come under the ambit of Section 2(cc)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner Workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned posts or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has argued that in the absence of any administrative instructions for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgement rendered by the Hon'ble High Court of Madras reported as 2000-II-LLJ, Page 326, "Tamil Nadu Civil Supplies Corporation Employees Union and Others Vs. Tamil Nadu Civil Supplies Corporation Ltd. and another". It is held in that judgement that when the work is of casual nature, in the absence of any post either under the statutory rule or by mere administrative instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment

of Casual Labourer was in force, these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department, these Petitioners were not given further work because of the ban, and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1998-II-LLJ, Page 627, "Municipal Corporation of Bilaspur and another vs. Vir Singh Rajput and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular there cannot be any regularisation of service. Here, in this case also, there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no work available for engaging these Petitioners as Casual Labourers further for considerable time. Hence, the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case alongwith the evidence let in, this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Department of Telecom is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner Workman is not entitled to any relief as the termination of his services by the Department of Telecom, Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day, the 21st November, 2000.

K. KARTHIKEYAN, Presiding Officer

Witness Examined :

For Claimant/I Party : WW1, Sri V. Vajjiram.

For Management/II Party : MW1, Sri M. Shanmugiah.

Documents Marked :

For Claimant/I Party :

Ex. W1 —Certificate for the engagement of Mazdoors in Work-reg.

Ex. W2 —Certificate for the engagement of Mazdoors in work.

Ex. W3 25-9-95—Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W4 —Acknowledgement of W3.

Ex. W5 31-10-97—Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W6 —Acknowledgement of W5

Ex. W7 —Certificate for the engagement of Mazdoors in work.

For the Management/II Party : None.

नई दिल्ली, 1 दिसम्बर, 2000

का. आ. 2793—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दर संचार विभाग के प्रन्धनंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/127/2000-आई आर (डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी,

New Delhi, the 1st December, 2000

S.O. 2793.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/127/2000-IR(DU)]
KULDIP RAI VERMA, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 21st November, 2000

Industrial Dispute No. 27/2000

PRESENT:

K. Karthikeyan, Presiding Officer.

(In the matter of the dispute for adjudication under Section 10(1)(d) and Sub-section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom, Tamilnadu Circle, Chennai)

BETWEEN

Sh. V. Vajjiram
S/o Vadivelu.

Claimant/I Party

AND

The Chief General Manager,
Department of Telecom,
Tamilnadu Circle,
Chennai.

Management/II Party

APPEARANCES:

For the Workman: M/s. M. Gnanasekar and C. Premavathy, Advocates.

For the Management: Shri K. Sivajothi, Addl. Central Government Standing Counsel.

REFERENCE:

Order No. L-40012/127/2000/IR(DU) dated 30-6-2000, Government of India, Ministry of Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the arguments of the Counsel for the workman Shri M. Gnanasekar and Shri K. Sivajothi, Addl. Central Government Standing Counsel for the Management and this dispute having stood over till this date for consideration this tribunal passed the following:—

AWARD

This reference by Central Government in the exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of dispute between Shri V. Vajjiram, workman and the Chief General Manager, Telecom, T. N. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows:

“Whether the termination of Shri V. Vajjiram by the Department of Telecom, Chennai is legal and justified? If not, to what relief the workman is entitled?”

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 27-7-2000 as Industrial Dispute No. 27/2000. On receipt of the notice from this tribunal, both the parties appeared with their respective coun-

sel and filed their respective Claim Statement and Counter Statement.

2. The averments of the Claim Statement of the Workman/I party are briefly as follows:—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan, Area in Madurai, Chennai. The petitioner was employed as a casual labour from 17-4-94 to 10-1-95. The petitioner was paid on daily rate basis and he received a salary of Rs. 1650 per month. Thereafter, he was engaged in muster roll in the Tricity Telephone Exchange. Thereafter, he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom, Tamilnadu Circle and also sent a reminder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approach the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating his services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted, before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re-engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perennial in nature. Therefore, when the work and necessity to engage the Petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fail to yield any result. The Supreme Court has held he telecommunication Department as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act, 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is in violation of 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I.D. Act. Therefore the termination of his services without any notice or compensation is ab initio void and the Petitioner is deemed to be in continuous service and therefore he is entitled to be reinstated with all other service benefits including arrears of back wages. The Respondent ought to have conferred temporary status as per the temporary status scheme, and to be absorbed against regular 'D' Post. Not doing so is illegal and arbitrary. The Petitioner file a petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-03-95 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy to approach this tribunal for redressal. The Petitioner is entitled for reinstatement in service. Therefore this tribunal may be pleased to pass an award declaring the order of termination dated 31-03-95 as illegal and arbitrary and consequently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-03-95 and further direct the Respondent to pay all arrears of back wages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows:—

The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (New Tech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989,

a scheme called 'grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e., on 1-10-89 and (iii) he should have put two hundred and forty days continuous service in any one of the preceding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Department was not an industry. The Petitioner has not submitted any record to prove his continuous service in the Department. His initial entry in the Department is also not known. Since the Petitioner was not a TSM Status mazdoor which is a pre-requisite for regularisation as Group 'D', the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commissioner for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hand and therefore the petition has to be dismissed in limine. Therefore this tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that similar case covered under that joint memo. The said joint memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Shri V. Vajjiram has been examined as the only witness for the Petitioner as W.W. 1. Six documents are marked on the Petitioner's side as Ex. Nos. W. 1 to W. 6. On the side of the II Party/Management one Divisional Engineer, Department of Telecom Shri M. Shanmugiah is examined as M.W. 1. No documents has been exhibited on the side of the Management. Subsequent to the evidence on either side was closed, the arguments advanced by the counsel for either side was heard.

5. The Point for my consideration is :—

"Whether the termination of Sri V. Vajjiram, casual mazdoor by the management of Department of Telecom, is legal and justified? If not, to what relief the workman is entitled?"

Point : It is admitted that the Petitioner was engaged by the Respondent on 17th April, 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Labour from 17-4-94 to 10-1-95, it is not stated that they were engaged by the Respondent continuously for the installation work. WW1, Shri V. Vajjiram, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1, no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Department of Telecom, Tamil Nadu Circle dated 25-9-95 he has stated that DE, AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this averment, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation. Shri M. Shanmugiah, Divisional Engineer, Department of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95 and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that "the work is over, you can go home and you may be called back as and when we require Workmen for our next installation work". So, from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the

version of WW1 that he alongwith other Petitioners joined the services as Casual Mazdoor in January 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work ever since they joined as Casual Mazdoor, is incorrect.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub-Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Murugan, A. Nandakumar, A. Sampath and K. Nagarajan were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex. W1 that the labourers N. Murugan, S. Devan and S. Velu were engaged for installation work at Trichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the Petitioner to prove that they have put in service for a continuous period of more than 275 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect. MW1 has admitted in his evidence that the Department has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January 1995 to March 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose, ban on recruiting casual labourers was introduced on 31-3-85 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period, their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by WW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself, it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract Labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request, the department removed them from the job. He has further affirmed that as they refused to work as Contract Labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these, it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on Temporary contingent basis and these Petitioners were employed as Casual Labourers and they were paid Rs 55 per day for the period they were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this, it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work

of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Petitioners have not satisfied any condition which require under the scheme called "Grant of Temporary Status to Casual Labourers" introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual labourer should have been engaged prior to 31-3-85 (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put 240 days continuous service in any one of the preceding years prior to 1-10-89. As per the contention of the Department and as per the evidence of MW1, these Petitioners have not satisfied the condition under the above said scheme. So, for want of pre-requisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service, without any break, for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the Petitioner had advanced an argument that the work at Madurai started in January 1995 was completed in November, 1995 and as such there was necessity for the Department to engage the Petitioners till November 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioners, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are workmen within the meaning of Section-2(S) of Industrial Disputes Act and since these people were engaged as unskilled labourers, they satisfied the definition of workers under Section-25(F) of Industrial Disputes Act, one month notice giving reasons for retrenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioner are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractors, it must be held that their termination is unjustified. For this, the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section-25(F) of Industrial Disputes Act, 1947. If at all, these Casual Labourers can only come under the ambit of Section-2(oo)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned post or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has argued that in the absence of any administrative instructions for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgement rendered by the Hon'ble High Court of Madras reported as 2000-II-LJI, Page 326 "Tamil Nadu Civil Supplies Corporation Employees Union and others vs. Tamil Nadu Civil Supplies Corporation Ltd. and another". It is held in that judgement that when the work is of casual nature, in the absence of any post either under the statutory

rule or by mere administrative instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment of Casual Labourer was in force, these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department, these Petitioners were not given further work because of the ban, and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1996-II-LJI, Page 621, "Municipal Corporation of Bhubaneswar and another vs. Vir Singh Rajput and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular, there cannot be any regularisation of service. Here, in this case, also there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no work available for engaging these Petitioners as Casual Labourers further for considerable time. Hence, the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case along with the evidence let in, this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Deptt. of Telecom. is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner workman is not entitled to any relief as the termination of his services by the Deptt. of Telecom, Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day the 21st November, 2000.

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined

For Claimant/I Party WW1, Shri V. Vajjiram.

For Management/II Party : MW1, Sri M. Shanmugiah.
Documents Marked

For Claimant/I Party

Ex. W1 — Certificate for the engagement of Mazdoors in Work-reg.

Ex. W2 — Certificate for the engagement of Mazdoors in work.

Ex. W3 25-9-95 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W4 — Acknowledgement of W3.

Ex. W5 31-10-97 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.

Ex. W6 — Acknowledgement of W5.

Ex. W7 — Certificate for the engagement of Mazdoors in work.

For the Management/II Party : None.

नई दिल्ली, 1 दिसम्बर, 2000

का. ओ. 2794—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकार

चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/128/2000-आई आर (डीयू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2794.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/128/2000-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 21st November, 2000

PRESENT:

K. Karthikeyan, Presiding Officer

Industrial Dispute No. 32/2000

(In the matter of the dispute for adjudication under Section 10(1)(d) and Sub-Section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom, Tamilnadu Circle, Chennai).

BETWEEN

Sh. K. Nagarajan,
S/o Kumarasamy.

Claimant/I Party

AND

The Chief General Manager,
Department of Telecom,
Tamilnadu Circle,
Chennai.

Management/II Party

APPEARANCE:

For the Workman: M/s. M. Gnanasekar and C. Premavathy, Advocates.

For the Management: Shri K. Sivajothi, Addl. Central Government Standing Counsel.

REFERENCE:

Order No. L-40012/128/2000-IR(DU) dt. 21-6-2000, Government of India, Ministry of Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the arguments of the counsel for the workman, Sh. M. Gnanasekar and Sh. K. Sivajothi Addl. Central Government Standing Counsel for the Management and this dispute having stood over till this date for consideration this tribunal passed the following:—

AWARD

This reference by Central Government in the exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of the dispute between Shri K. Nagarajan, workman and the Chief General Manager, Telecom, T. N. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows:

"Whether the termination of Shri K. Nagarajan by the Department of Telecom, Chennai is legal and justified? If not, to what relief the workman is entitled?"

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 27-7-2000 as Industrial Dispute No. 32/2000. On receipt of the notice from this tribunal, both the parties appeared with their respective counsel and filed their respective Claim Statement and Counter Statement.

2. The averments of the Claim Statement of the Workman/I Party are briefly as follows:—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan AHE insultation, Chennai. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95. The Petitioner was paid on daily rate basis and he received a salary of Rs. 1650 per month. Thereafter, he was engaged in muster roll in the Trichy Telephone Exchange. Thereafter, he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom, Tamilnadu Circle and also sent a reminder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approach the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating his services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted, before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re-engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perinial in nature. Therefore, when the work and necessity to engage the Petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fail to yield any result. The Supreme Court has held the telecommunication Department as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act, 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is in violation of section 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I.D. Act. Therefore the termination of his services without any notice or compensation is ab initio void and the Petitioner is deemed to be in continuous service and therefore he is entitled to be reinstated with all other service benefits including arrears of backwages. The Respondent ought to have conferred temporary status as per the temporary status scheme, and to be absorbed against regular 'D' Post. Not doing so is illegal and arbitrary. The Petitioner file a petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-03-95 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy except to approach this tribunal for redressal. The Petitioner is entitled for reinstatement in service. Therefore this tribunal may be pleased to pass an award declaring the order of termination dated 31-03-95 as illegal and arbitrary and consequently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-03-95 and further direct the Respondent to pay all arrears of backwages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows:—

The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (Newtech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989, a scheme called 'Grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e., on 1-10-89 and (iii) he should have put two hundred and forty days continuous service in any one of the preceding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Department was not an industry. The Petitioner has not submitted any record to prove his continuous service in the Department. His initial entry in the Department is also not known. Since the Petitioner was not a TSM Status mazdoor which is a pre-requisite for regularisation as Group 'D', the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commissioner for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hands and therefore the petition has to be dismissed in limine. Therefore this tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that similar case covered under that joint memo. The said joint memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Sh. V. Vajiram has been examined as the only witness for the Petitioner as W.W. 1. Six documents are marked on the Petitioner's side as Ex. Nos. W.1 to W.6. On the side of the II Party/Management one Divisional Engineer, Department of Telecom Sh. M. Shanmugiah is examined as MW 1. No documents has been exhibited on the side of the Management. Subsequent to the evidence on either side was closed the arguments advanced by the counsel for either side was heard.

5. The Point for my consideration is:—

"Whether the termination of Sri K. Nagarajan by the management of Department of Telecom is legal and justified? If not, to what relief the workman is entitled?"

Point: It is admitted that the Petitioner was engaged by the Respondent on 17th April, 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Labour from 17-4-94 to 10-1-95, it is not stated that they were engaged by the Respondent continuously for the installation work. WW1, Shri V. Vajiram, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1 no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Deptt. of Telecom, Tamil Nadu Circle dt. 25-9-95, he has stated that DE AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this averment, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation. Shri M. Shanmugiah, Divisional Engineer, Department of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95

and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that "the work is over, you can go home and you may be called back as and when we require Workmen for our next installation work". So, from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the version of WW1 that he alongwith other Petitioners joined the services as Casual Mazdoor in January, 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work ever since they joined as Casual Mazdoor, is incorrect.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub-Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Murugan, A. Nandakumar, A. Sampath and K. Nagarajan were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex. W1 that the labourers N. Murugan, S. Devan and S. Velu were engaged for installation work at Trichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the Petitioner to prove that they have put in service for a continuous period of more than 275 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect. MW1 has admitted in his evidence that the Department has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January, 1995 to March, 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose that on recruiting casual labourers was introduced on 31-3-1985 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by WW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request, the department removed them from the job. He has further affirmed that as they refused to work as Contract labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on temporary contingent basis and these Petitioners were employed as Casual Labourers and they were paid Rs. 55 per day for the period they

were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Petitioners have not satisfied any condition which require under the scheme called "Grant of Temporary Status to Casual Labourers" introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual Labourers should have been engaged prior to 31-3-85 (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put 240 days continuous service in any one of the preceding years prior to 1-10-89. As per the contention of the Department and as per the evidence of MW1, these Petitioners have not satisfied the condition under the above said scheme. So, for want of pre-requisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service, without any break, for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the Petitioner had advanced an argument that the work at Madurai started in January 1995 was completed in November 1995 and as such there was necessity for the Department to engage the Petitioners till November 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioners, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are Workmen within the meaning of Section-2(S) of Industrial Disputes Act and since these petitioners were engaged as unskilled labourers, they satisfied the definition of workers under Section-25(F) of Industrial Disputes Act, one month notice giving reasons for retrenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioner are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractors, it must be held that their termination is unjustified. For this the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section-25(F) of Industrial Disputes Act, 1947. If at all these Casual Labourers can only come under the ambit of Section-2(cc)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner Workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned posts or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has proved that in the absence of any administrative instruction for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for

the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgement rendered by the Hon'ble High Court of Madras Reported as 2000-II-LLJ, Page 326, "Tamil Nadu Civil Supplies Corporation Employees Union and others vs. Tamil Nadu Civil Supplies Corporation Ltd and another". It is held in that judgement that when the work is of casual nature, in the absence of any post either under the statutory rule or by mere administrative instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment of Casual Labourer was in force these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department these Petitioners were not given further work because of the ban, and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1993-II-LLJ, Page 627, "Municipal Corporation of Bilaspur and another vs. Vir Singh Rajput and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular, there cannot be any regularisation of service. Here, in this case also, there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no work available for engaging these Petitioners as Casual Labourers further for considerable time. Hence the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case alongwith the evidence let in, this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Deptt. of Telecom is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner Workman is not entitled to any relief as the termination of his services by the Deppt. of Telecom, Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day, the 21st November, 2000.

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined

For Claimant/I Party : WW1, Sri V. Vajiram

For Management/II Party : MW1, Sri M. Shanmugiah

Documents Marked

For Claimant/I Party

Ex W1—Certificate for the engagement of Mazdoors in Work—reg.

Ex W2—Certificate for the engagement of Mazdoors in work.

Ex W3 25.0.95 Letter from Shri V. Vajiram to the Chief General Manager, Telecom

Ex W4—Acknowledgement of W3.

Ex W5 31.10.97 Letter from Shri V. Vajiram to the Chief General Manager, Telecom.

Ex W6—Acknowledgement of W5

Ex W7—Certificate for the engagement of Mazdoors in work

For the management/II Party. None.

नई दिल्ली, 1 दिसम्बर, 2000

का. अ. 2795.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार विभाग के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/187/96-आई आर (डीयू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2795—In pursuance of Section 17 of the Industrial Dispute Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/187/96-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-1. LABOUR COURT, LUCKNOW
Presiding Officer: Rudresh Kumar.

ADJUDICATION

BETWEEN

Anurag Prakash Tewari,
S/o Shri J. C. Tewari,
538/85, Ahibaranpur,
Sitapur Road,
Lucknow.

AND

The General Manager,
Telecom Department,
Gandhi Bhawan,
Lucknow Telephones,
Lucknow.

AWARD

By reference No. 40012/187/96-IR(DU) dated 2-2-1998, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 I.D. Act, 1947 made over this industrial dispute between Anurag Prakash Tewari S/o J. C. Tewari and General Manager, Telecom Department, Lucknow for adjudication. The reference is reproduced as under:

"Whether the provisions of Industrial Dispute Act, 1947 are applicable in this case? Whether Shri Anurag Prakash Tewari, workman has worked with the Department of Telecom, Lucknow from 1-10-86 to 31-5-87? If so, he is entitled to what relief?"

2. The workman Anurag Prakash Tewari was engaged as casual labour w.e.f. 1-10-86 and continued to work upto 31-5-87, in Trunk Exchange Installation. Subsequently he worked from 1-7-87 to 31-10-87. Thus, he had been in 'continuous service' as per provisions of Section 25-B I.D. Act, 1947. He was given oral termination order on 1-11-87 without observing legal requirements, envisaged under Section 25-F I.D. Act, 1947. The case of the workman is that his termination is illegal and also discriminatory, as other casual labours who were engaged at the time, the workman was engaged, are still continuing on regular basis. It is further averred that his representation to the authorities did not bear any result. In view of the said facts, the workman seeks reinstatement with full wages.

3. The management does not dispute factum of engagement and working period as mentioned before, in which, the workman worked with the management of the Telecommunication Department. Above facts are not denied, specifically, either in the written statement of the management or in the statement of the management witness examined to 3354 GI/2000—12.

substantiate justification of termination. Management examined Shri Prasad Upadhyaya, Sr. Sub Divisional Engineer, who admitted the engagement of the workman as casual worker on daily wage. He also admitted that the workman worked for about a year in one of the Installation branch of the Telecom Department. This witness also admitted that the Installation work is continuing process in the Telecom Department. The witness further stated that the workman was told orally that his engagement was for period of one year only. This witness also admitted a certificate Ex. W1 issued by him, according to which, the workman had worked since 1-10-1986 to 31-5-1987 in Trunk Exchange Installation. Vidhan Saha (240 days) and 120 days w.e.f. 1-7-1987 to 31-10-1987 thus total working period being 360 days.

4. In view of the admitted facts that the workman was a casual labour and had worked for more than 240 days, it is to be determined as whether the workman acquired any legal right to derive benefit of Section 25-F I.D. Act. Before this issue is discussed, it would be convenient to have a glance over the terms of reference. The schedule of reference dated 2-2-1998, reproduced above, can be classified in two parts viz.:

(i) Whether the provisions of Industrial Dispute Act, 1947 are applicable in this case? and

(ii) Whether Anurag Prakash Tewari worked with Telecom, Department, Lucknow from 1-10-1986 to 31-5-1987? If so, he is entitled to any relief.

5. As regards the applicability of I.D. Act, 1947 in the present case, it is suffice to say that the decision in Sub-Divisional Officer of Post Office and others V/s. Theyyam Joseph etc. reported in 1996 Supreme Court, 1271 which held Post and Telecom Departments not covered by the definition of "Industry" is no longer good law, in view of decision of a larger bench of the Apex Court in C.A. No. 7845/97 decided on November 18, 1997 between General Manager, Telecom Department and S. Srinivasan Rao and others. In this subsequent decision, it has been specifically mentioned that the law pronounced in Theyyam Joseph's case is not correct law. Thus, the provision of Industrial Dispute Act, 1947 are applicable in this case, in light of the subsequent decision of the Apex Court.

6. The second part of the reference relates to working period of the workman i.e. 1-10-1986 to 31-5-1987 and legal entitlement, based on the above said working. As stated earlier, the period of working by the workman from 1-10-86 to 31-5-1987 is not denied by the management. Ex W-1 is a certificate issued by MW-1 Sh. Prasad Unadhyaya who admitted this fact in his testimony. Shri Prakash Unadhyaya stated that the workman Anurag Prakash Tewari worked for a year and so, period of continuous working is admitted. MW also has stated that the workman was engaged for one year. This statement is not sufficient to show that the engagement of the workman was contractual or time bound. In fact, the consistent case of the management is that the workman was engaged as casual labour and worked for more than 240 days. No plea has been taken that this period of working was interrupted. Thus, the workman worked continuously for more than 240 days in a calendar year as per definition of 'Continuous Service', under Section 25-B I.D. Act, 1947.

7. Taking the admitted facts into consideration it is held that the workman was entitled to protection of Section 25-F I.D. Act. Management does not claim to have complied with the said legal provisions by giving notice, retrenchment compensation etc. Thus, the termination of the workman was invalid and the action of the management was neither just nor legal.

8. Accordingly, the workman is entitled to reinstatement as casual labour, as his status was on the day of termination.

9. Whether the workman is entitled to back wages in the facts and circumstances of the case? There is no material on the record to suggest that the workman sought legal redress before 1996. He kept silence for about nine years and such laches on his part should not entitled him to wages without work. However, some consideration is appropriate, as he pursued his case before the authorities from 1996. Thus, in the situation of this case, the workman may be compensated by awarding 25 per cent back wages on revised rates of payment from time to time, admissible to the casual

labours in Telecom Department.

As discussed above the award is as under :

A. the provisions of the Industrial Dispute Act, 1947 are applicable in the case of the workman ; and

B. The workman Anurag Prakash Tewari is entitled to reinstatement with 25 per cent back wages on revised rates, from time to time, admissible to the casual labours.

Lucknow.
23-11-2000.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2000

का. अ. 2796.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार विभाग के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था ।

[सं. एल-40012/235/2000-आई आर (डीयू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2796.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/235/2000 IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI
Tuesday, the 21st November, 2000

PRESENT :

K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO : 53/2000

(In the matter of the dispute for adjudication under Section 10(1)(d) & Sub-Section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom, Tamilnadu Circle, Chennai).

BETWEEN

Sh. E. Bhaskar
S/o Ekambaram

Claimant/I Party

AND

The Chief General Manager
Deptt. of Telecom
Tamilnadu Circle
Chennai

Management/II Party

APPEARANCE :

For the Workman :

M/s M. Gnanasekar and
C. Premavathy, Advocates.

For the Management :

Shri. K. Sivajothi, Addl.
Central Govt. Standing Counsel.

Reference : Order No. L-40012/235/2000/IR(DU) dated
29-8-2000. Government of India, Ministry of
Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the arguments of the counsel for the workman, Sh. M. Gnanasekar and Sh. K. Sivajothi Addl. Central Govt. Standing Counsel for the Management and this dispute having stood over till this date for consideration this tribunal passed the following :—

AWARD

This reference by Central Govt. in the exercise of the powers conferred by Clause (d) of sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of dispute between Shri E. Bhaskar, workman and the Chief General Manager, Telecom, TN. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows :

"whether the demand of Shri E. Bhaskar for reinstatement by the Department of Telecom, Chennai is legal and justified? If not, to what relief the workman is entitled?"

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 12-9-2000 as Industrial Dispute No. 53/2000. On receipt of the notice from this tribunal, both the parties appeared with their respective counsel and filed their respective Claim Statement and Counter Statement.

2 The averments of the Claim Statement of the Workman/I Party are briefly as follows :—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan AHE insulation, Chennai. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95. The Petitioner was paid on daily rate basis and he received a salary of Rs. 1650/- per month. Thereafter, he was engaged in muster roll in the Trichy Telephone Exchange. Thereafter, he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom, Tamilnadu Circle and also sent a reminder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approach the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating his services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted, before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re-engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perinial in nature. Therefore, when the work and necessity to engage the petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fails to yield any result. The Supreme Court has held the Telecommunication Department as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act, 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is in violation of 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I.D. Act. Therefore the termination of his services without any notice or compensation is ab initio void and the Petitioner is deemed to be in continuous service and, therefore, he is entitled to be reinstated with all other service benefits including

arrears of back wages. The Respondent ought to have conferred temporary status as per the temporary status scheme, and to be absorbed against regular 'D' post. Not doing so is illegal and arbitrary. The Petitioner file a Petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-03-95 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy except to approach this tribunal for redressal. The Petitioner is entitled for reinstatement in service. Therefore this tribunal may be pleased to pass an award declaring the order of termination dated 31-03-95 as illegal and arbitrary and consequently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-03-95 and further direct the Respondent to pay all arrears of back wages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows :—

The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (Newtech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989, a scheme called 'Grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e., on 1-10-89, and (iii) he should have put two hundred and forty days continuous service in any one of the preceding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Department was not an industry. The Petitioner has not submitted any record to prove his continuous service in the Department. His initial entry in the Department is also not known. Since the Petitioner was not a TSM Status mazdoor which is a pre-requisite for regularisation as Group 'D', the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commissioner for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hands and therefore, the petition has to be dismissed in limine. Therefore, this tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that similar case covered under that joint memo. The said joint memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Shri V. Vajjiram has been examined as the only witness for the Petitioner as W.W. 1. Six documents are marked on the Petitioner's side as Ex. Nos. W 1 to W. 6. On the side of the II Party/Management one Divisional Engineer, Department of Telecom Shri M. Shanmugiah is examined as M.W. 1. No documents has been exhibited on the side of the Management. Subsequent to the evidence on either side was closed, the arguments advanced by the counsel for either side was heard.

5. The Point for my consideration is :—

"Whether the demand of Shri E. Bhaskar for reinstatement by the Department of Telecom is legal and justified. If not, to what relief the Workman is entitled?"

Point: It is admitted that the Petitioner was engaged by the Respondent on 17th April, 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Labour from 17-4-94 to 10-1-95, it is not stated that they were engaged by the Respondent continuously for the installation work. WW1, Shri V. Vajjiram, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1, no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Department of Telecom, Tamil Nadu Circle dated 25-9-95, he has stated that DE, AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this avowment, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation. Shri M. Shanmugiah, Divisional Engineer, Department of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95 and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that "the work is over, you can go home and you may be called back as and when we require Workmen for our next installation work". So, from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the version of WW1 that he alongwith other Petitioners joined the services as Casual Mazdoor in January 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work ever since they joined as Casual Mazdoor, is incorrect.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub-Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Murugan, S. Devan and S. Velu were engaged for installation were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex. W1 that the labourers N. Murugan, S. Devan and S. Velu were engaged for installation work at Thichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the Petitioner to prove that they have put in service for a continuous period of more than 275 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect. MW1 has admitted in his evidence that the Department has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January 1995 to March 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose, ban on recruiting casual labourers was introduced on 31-3-1985 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work

for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period, their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by MW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself, it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request, the department removed them from the job. He has further affirmed that as they refused to work as Contract labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these, it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on Temporary contingent basis and these Petitioners were employed as Casual Labourers and they were paid Rs. 55 per day for the period they were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this, it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Petitioners have not satisfied any condition which require under the scheme called "Grant of Temporary Status to Casual Labourers" introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual labourer should have been engaged prior to 31-3-85, (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put 240 days continuous service in any of the preceding years prior to 1-10-89. As per the contention of the Department and as per the evidence of MW1, these Petitioners have not satisfied the condition under the above said scheme. So, for want of pre-requisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service, without any break for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the Petitioner had advanced an argument that the work at Madurai started in January, 1995 was completed in November, 1995 and as such there was necessity for the Department to engage the Petitioners till November, 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioners, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are Workmen within the meaning of Section 2(S) of Industrial Disputes Act and since these people were engaged as unskilled labourers they satisfied the definition of workers under Section 25(F) of Industrial Disputes Act, one month notice giving reasons for retrenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioners

are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractors, it must be held that their termination is unjustified. For this, the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section 25(F) of Industrial Disputes Act, 1947. If at all, these Casual Labourers can only come under the ambit of Section 2(oo)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner Workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned posts or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has argued that in the absence of any administrative instructions for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgement rendered by the Hon'ble High Court of Madras reported as 2000-II-I.L.J., Page 326, "Tamil Nadu Civil Supplies Corporation Employees Union and others vs. Tamil Nadu Civil Supplies Corporation Ltd. and another". It is held in that judgement that when the work is of casual nature, in the absence of any post either under the statutory rule or by mere administrative Instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment of Casual Labourer was in force, these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department, these Petitioners were not given further work because of the ban and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1998-II-I.L.J. Page 627 "Municipal Corporation of Bilaspur and another vs. Vir Singh Rainut and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular, there cannot be any regularisation of service. Here, in this case also, there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no work available for engaging these Petitioners as Casual Labourers further for considerable time. Hence, the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case alongwith the evidence let in this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Department of Telecom is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner Workman is not entitled to any relief as the termination of his services by the Department of Telecom Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day, the 21st November, 2000.

K. KARTHIKEYAN, Presiding Officer

Witness Examined :

For Claimant/I Party: WW1, Sri V. Vajjiram
For Management/II Party: MW1, Sri M. Shanmugiah

Documents Marked :

For Claimant/I Party:
Ex. W1 — Certificate for the engagement of Mazdoors in Work—reg.
Ex. W2 — Certificate for the engagement of Mazdoors in work.
Ex. W3 25-9-95 Letter from Chri V. Vajjiram to the Chief General Manager, Telecom.
Ex. W4 — Acknowledgement of W3.
Ex. W5 31-10-97 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.
Ex. W6 — Acknowledgement of W5.
Ex. W1 — Certificate for the engagement of Mazdoors in work.
For the Management/II Party: None.

नई दिल्ली, 1 दिसम्बर, 2000

का. आ. 2797.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-2000 को प्राप्त हुआ था।

[सं. एल-40012/236/2000-आई आर (डीयू)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 1st December, 2000

S.O. 2797.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom. and their workman, which was received by the Central Government on 1-12-2000.

[No. L-40012/236/2000-IR (DU)]
KULDIP RAI VERMA, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Tuesday, the 21st November, 2000

PRESENT :

K. KARTHIKEYAN, Presiding Officer.
Industrial Dispute No. 54/2000

(In the matter of the dispute for adjudication under Section 10(1)(d) and Sub-Section 2(A) of the Industrial Disputes Act, 1947 between the Claimant and the Management of Chief General Manager, Telecom, Tamilnadu Circle, Chennai).

BETWEEN

Sh. S. Murugan
S/o T. G. Subramani. . . Claimant/I Party.

AND

The Chief General Manager
Dept. of Telecom
Tamilnadu Circle
Chennai. . . Management/II Party.

APPEARANCES :

For the Workman.—M/s. M. Gnanasekar and
C. Premavathy, Advocates.
For the Management.—Shri. K. Sivajothi, Addl.
Central Government Standing Counsel.

REFERENCE :

Order No. L-40012/236/2000/IR(DU) dated 29th August, 2000, Government of India, Ministry of Labour, New Delhi.

This dispute on coming up before me for final hearing on 31-10-2000 upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, the oral evidence of both the parties and documentary evidence let in on the side of the workman and upon hearing the arguments of the counsel for the workman, Sh. M. Gnanasekar and Sh. K. Sivajothi Addl. Central Government Standing Counsel for the Management and this dispute having stood over till this date for consideration this tribunal passed the following :—

AWARD

This reference by Central Government in the exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of dispute between Shri S. Murugan, workman the Chief General Manager, Telecom, T. N. Circle, Chennai, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows :

“Whether the demand of Shri S. Murugan for reinstatement by the Department of Telecom, Chennai is legal and justified? If not to what relief the workman is entitled?”

On receipt of this reference, this industrial dispute has been taken on file of this tribunal on 12-9-2000 as Industrial Dispute No. 54/2000. On receipt of the notice from this tribunal, both the parties appeared with their respective counsel and filed their respective Claim Statement and Counter Statement.

2 The averments of the Claim Statement of the Workman/I Party are briefly as follows :—

The first party claimant (hereinafter mentioned as the Petitioner) was appointed by the Divisional Engineer, Mr. B. Jagadeesan AHE insulation, Chennai. The Petitioner was employed as a casual Labour from 17-4-94 to 10-1-95. The Petitioner was paid on daily rate basis and he received a salary of Rs. 1650 per month. Thereafter, he was engaged

in muster roll in the Trichy Telephone Exchange. Thereafter, he was denied employment without any reason. He made oral representation to the Chief General Manager, Telecom, Tamilnadu Circle and also sent a remainder. But he has not received any reply to any of his representation. He belongs to poor family which was depending upon his job for their livelihood.

The Petitioner was denied employment in the year 1995. When he approach the concerned authority, he was informed that he will be taken back to duty after short time. No reason was given by the authority for terminating his services. The II Party employer (hereinafter mentioned as Respondent) has failed to follow the principles of natural justice. No enquiry was conducted, before his services were discontinued. The Petitioner was not given any opportunity prior to his termination from service. He was waiting for orders from the Respondent regarding his re-engagement. But he received no orders and he was not taken back to duty so far. His services were utilised for the regular work and the work performed by him was perinial in nature. Therefore, when the work and necessity to engage the Petitioner is a continuous one, there is no reason or justification for denying employment to the Petitioner. The Respondent being the state employer should have considered the grievances of the Petitioner and should have made him permanent. The Petitioner is suffering without employment from 1995 and any amount of representation to the authorities fail to yeild any result. The Supreme Court has held the telecommunication Department as an industry, in its judgement reported in JT 1997 (g) 234. Hence the Petitioner can approach the forum under the Industrial Dispute Act, 1947. The Petitioner has put in more than a decade of continuous service and the termination of his services is in violation of 25F of the I.D. Act, 1947. The Petitioner was not given any notice of compensation in terms of Section 25F of I. D. Act. Therefore the termination of his services without any notice or compensation is ab initio void and the Petitioner is deemed to be in continuous service and therefore he is entitled to be reinstated with all other service benefits including arrears of backwages. The Respondent ought to have conferred temporary status as per the temporary status scheme, and to be absorbed against regular 'D' Post. Not doing so is illegal and arbitrary. The Petitioner file a petition before the Regional Labour Commissioner to initiate conciliation proceedings and to bring about an effective settlement of the dispute arising out of illegal termination of the Petitioner dated 31-3-1995 and direct the Respondent to reinstate the Petitioner in service with back wages for the period during which he was kept out of employment illegally. However, no settlement could be reached before the conciliation authority and the conciliation ended in failure. The Petitioner has no other remedy except to approach this tribunal for redressel. The Petitioner is entitled for reinstatement in serice. Therefore, this tribunal may be pleased to pass an award declaring the order of termination dated 31-3-1995 as illegal and arbitrary and consiquently direct the Respondent Management to reinstate the Petitioner in service with effect from 31-3-1995 and further direct the Respondent to pay all arrears of backwages and all other attendant benefits with cost.

3. The averments in the Counter Statement of the II Party Management are briefly as follows :—The II Party Management (hereinafter mentioned as Respondent) admits that the Petitioner was employed by the Divisional Engineer, Telecom (Newtech Installation) on casual basis and no regular appointment was issued to the Petitioner. The Petitioner was employed as a casual labour from 17-4-94 to 10-1-95 on contingent basis, and payment was made as and when work was over. The Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment. Since there was no work the Petitioner was stopped. As there was no work the Petitioner was not called back for work. In 1989, a scheme called 'Grant of temporary status to casual labourers' was introduced. Essential conditions for grant of temporary status is that (i) the casual labourer should have been engaged prior to 31-3-85. (ii) he should be currently employed on the date of implementation of the scheme i.e., on 1-10-89 and (iii) he should have put two hundred and forty days continuous service in any one of the preceeding years prior to 1-10-89. Since the Petitioner has not satisfied the above said conditions he could not be given temporary mazdoor status and without temporary mazdoor status the Petitioner could not be regularised. Moreover, at the time of Petitioner's claim the Dept. was not an industry. The Petitioner has not submitted any record to prove his continuous service in the Dept. His initial entry in the Dept. is also not known. Since the Petitioner was not a TSM Status mazdoor which is a prerequisite for regularisation as Group 'D', the question of regularisation does not arise in this case. The Petitioner's services were terminated since there was no work. His attempt before the Regional Labour Commissioner for conciliation failed. The claim petition filed by the Petitioner is devoid of merits. The Petitioner has not come forward with clear hands and therefore the petition has to be dismissed in limini. Therefore this Tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry counsel on either side filed a joint memo requesting this tribunal to treat the evidence let in by either side in I.D. 22/2K as evidence for the other similar six cases. This is one among that similar case covered under that joint memo. The said joint memo is recorded. The Petitioner/Claimant in I.D. 27/2000 Sh. V. Vajjiram has been examined as the only witness for the Petitioner as W.W.1. Six documents are marked on the Petitioner's side as Ex. Nos. W.1 to W.6. On the side of the II Party Management one Divisional Engineer, Dept. of Telecom Sh. M. Shanmugalah is examined M.W.1. No documents has been exhibited on the side of the Management. Subsequent to the evidence on either side was closed, the arguments advanced by the counsel for either side was heard.

5. The Point for my consideration is :—

"Whether the demand of Sri S. Murugan for reinstatement by the department of Telecom is legal and justified? If not, to what relief the Workman is entitled?"

Point : It is admitted that the Petitioner was engaged by the Respondent on 17th April 1994 for the installation work at Coimbatore. Though, in the Claim Statement, it is stated that the Petitioner was employed as Casual Laborer from 17-4-94 to 10-1-95, it is not

stated that they were engaged by the Respondent continuously for the installation work. WW1, Shri V. Vajjram, the Petitioner in I.D. No. 27, while giving common evidence has deposed that he joined the service as Casual Mazdoor in the AXE Installation, now New Tech Installation on 11-1-94 at Coimbatore. He has not mentioned so even in his Claim Statement. For such contention of WW1, no document has been filed on the side of the Petitioner Workman. Only in Ex. W3, the copy of the letter said to have been sent by the WW1 to CGM, Deptt. of Telecom, Tamil Nadu Circle dt. 25-9-95, he has stated that DE, AXE Installation took him and other eight persons on 11-1-94 for the Muster Roll Mazdoor work at Telephone Exchange at Sai Baba Colony at Coimbatore. For this averment, no other document in support of his version as Muster Roll, maintained by the Respondent Department is produced in this case. Again, it is the version of WW1 in Ex. W5 that he worked on the basis of Contract from 11-1-94 to 30-4-95 under DE, AXE Installation, Shri M. Shanmugiah, Divisional Engineer, Deptt. of Telecom as MW1 has deposed that these Workmen were employed by them as Casual Labourers during the period from 17-4-94 to 10-1-95 and they were not engaged continuously during that period. It is also his evidence, that these Workmen were engaged purely on Temporary Basis and they used to engage them as Casual Labourers only when there is work, and on completion of the installation work, they used to tell them that "the work is over, you can go home and you may be called back as and when we require Workman for our next installation work". So, from this evidence of MW1 and in the absence of any authenticated record as documentary evidence on the side of the Petitioner, it is seen that the version of WW1 that he alongwith other Petitioners joined the services as Casual Mazdoor in January 1994 and the work at Coimbatore was completed on 30-4-94 and they were having continuous work ever since they joined as Casual Mazdoor, is incorrect.

6. It is an admitted case that the Petitioner was employed as a Casual Labour from 17-4-94 to 10-1-95. The Respondent would further contend in their Counter Statement that they were employed during that period on contingent basis and payment was made as and when work was over. As stated earlier, contrary to the contention of the Respondent that the Petitioner's nature of work is purely temporary and not continuous and it depends upon the availability of equipment, no acceptable or concrete evidence available on the side of the Petitioner to say that the Petitioners were engaged by the Respondent continuously for the installation work for the above period. WW1 has deposed that the Sub-Divisional Engineer, New Tech Installation has given certificates for the period, he was engaged for installation work at Madurai and similar certificates were issued for other co-labourers. Ex. W7 is one such certificate issued in favour of WW1 and Exhibits W1 and W2 are the two other such certificates issued in favour of 3 and 4 labourers like him. From these documents, it is seen that WW1 and other labourers S. Murugan, A. Nandakumar, A. Sambath and K. Nagarajan were engaged for installation work at Madurai from 17-1-95 to 13-3-95. It is seen from Ex. W1 that the labourers N. Murugan, S. Devan and S. Velu were engaged for installation work at Trichy from 17-1-95 to 31-3-95. Apart from these certificates, no other document has been produced by the

Petitioner to prove that they have put in service for a continuous period of more than 2/5 days. It is the evidence of WW1 that for the work they have done under the Department, Attendance Register and Wage Register for the disbursement of wages, once in a month on daily rated basis were maintained by the Department. But nothing has been stated in the Claim Statement of the Petitioner to that effect, MW1 has admitted in his evidence that the Depart. has got official attendance for these Claimants only for 74 days between 17-1-95 to 31-3-95. He would further admit that from January 1995 to March 1995, they were working under Muster Rolls and attendance for them was maintained and their wages were paid at the end of the month on daily wages basis. He would further depose, ban on recruiting casual labourers was introduced on 31-3-1985 and subsequent to that date, they cannot employ the workers as Muster Roll employees. It is also his evidence since there was no work for the labourers, subsequent to 31-3-95 and since they were recruited during the ban period, their services were terminated on 31-3-95. He would further depose that two or three weeks after 31-3-95, their next work of installation began and at that time, they offered these labourers work on contract basis but they refused to come for the work. This has been admitted by WW1 in his evidence. It is also his admission that they were not employed as Muster Roll employees when they worked at Coimbatore. In the Chief Examination itself, it is his admission that they worked at Madurai till 31-3-95 as Muster Roll employees and the department insisted them to work as Contract labourers subsequently but they demanded the department to provide them work as Muster Roll employees and that instead of complying with their request the department removed them from the job. He has further affirmed that as they refused to work as Contract labourers, they have stopped them from the job and that for the work done after 31-3-95, they have not been called for the job by the Telecom authorities. MW1 has also deposed that after 31-3-95, when they offered the labourers work on Contract Basis, they refused to come for work. From all these, it is seen that these Petitioners were engaged by the Department, for the installation work manual labour on Temporary contingent basis and these Petitioners were Employed as Casual Labourers and they were paid Rs. 55/- per day for the period they were engaged by the Department to do the manual work of installation of machineries at Telephone Exchanges. It is a clear evidence of MW1 that these labourers were engaged by the Department as Casual Labourers upon the availability of the equipment for installation. From this, it is seen that these Petitioners were not engaged by the Department as labourers in any permanent post. Nothing is available on record to show and it is not the contention of the Petitioners that they were ever furnished with any Appointment Order by the Department for engaging them for the manual work of installation of equipments. It is a definite case of the Department that no Appointment Order was issued to these labourers when they were engaged for work and the nature of work is purely temporary. It is the contention of the Department that the Peti-

tioners have not satisfied any condition which require under the scheme called "Grant of Temporary Status to Casual Labourers" introduced in 1989. As per their contention that the essential conditions for the grant of temporary status are (i) the Casual Labourer should have been engaged prior to 31-3-85 (ii) he should be currently employed on the date of implementation of the scheme i.e. on 1-10-89 and (iii) he should have put 240 days continuous service in any one of the preceding years prior to 1-10-89. As per the contention of the Department and as per the evidence of MW1, these Petitioners have not satisfied the condition under the abovesaid scheme. So, for want of pre-requisite conditions for granting temporary status to a Casual Labourer, as per the above mentioned scheme of the year 1989, these Petitioners cannot be granted Temporary Status. Further, in the absence of any acceptable evidence on the side of the Petitioner, their contention that they have rendered continuous service without any break, for more than a period of 240 days to avail the benefits under the Industrial Disputes Act cannot be accepted.

7. The learned counsel for the Petitioner had advanced an argument that the work at Madurai started in January 1995 was completed in November 1995 and as such there was necessity for the Department to engage the Petitioners till November 1995. But, without giving any reason, the Department has denied the employment for these Petitioners and that the reason given by the Department that on account of ban on recruitment of Casual Labourer imposed in 1985 and there was no work available, should not be accepted, as sustainable reasons. He would further contend that when there was work and the necessity to engage them, the termination is unjustified. It is his further argument that at the time of termination of Petitioners, they were not informed the reason for termination and no notice was given with reason for termination and that the Petitioners are Workmen within the meaning of Section 2(S) of Industrial Disputes Act and since these people were engaged as unskilled labourers they satisfied the definition of workers under Section 25(F) of Industrial Disputes Act, one month notice giving reasons for to trenchment and one month's remuneration ought to have been given. But, the Department has not complied with the provision of law and hence the termination is illegal and void ab initio and that these Petitioners are deemed to be in continuous service and hence the sudden termination of service when they were directly employed by the Telecom Department without any contractors, it must be held that their termination is unjustified. For this, the learned counsel for the Department would submit that the temporary engagement of Casual Labourers by the Respondent occasionally, will not vest any right on the Petitioner to claim

benefits under the Industrial Disputes Act, 1947 and to state that there is contravention of Section 25(F) of Industrial Disputes Act, 1947. If at all, these Casual Labourers can only come under the ambit of Section 2(oo)(bb) of Industrial Disputes Act, 1947 which is an exception for retrenchment and hence the non-employment of Petitioner Workmen did not amount to retrenchment and the Petitioner cannot claim any relief as retrenchment compensation from the Department or re-employment. In view of the materials available in this case, the argument advanced by the learned counsel for the Respondent can be accepted as correct.

8. It is not the case of the Petitioners that they were employed by the Department for the permanent sanctioned posts or there are administrative instructions for regularisation of their services. The learned counsel for the Respondent has argued that in the absence of any administrative instructions for regularisation of these labourers and when these labourers were not employed by the Department as Workmen for the sanctioned posts, the Department cannot treat these labourers as regular employees of the Department whose services can be regularised. In support of his contention, he is relying on a judgment rendered by the Hon'ble High Court of Madras reported as 2000-II-LLJ, Page 326, "Tamil Nadu Civil Suppliers Corporation Employees Union and others vs. Tamil Nadu Civil Supplies Corporation Ltd. and another". It is held in that judgement that when the work is of casual nature, in the absence of any post either under the statutory rule or by mere administrative instruction, the Court cannot issue positive direction to the Respondent for regularising the services of the Petitioners. This decision of the Hon'ble High Court of Madras in that case is squarely applicable to this case also. The learned counsel for the Petitioner has also stated that when the ban for employment of Casual Labourer was in force, these Petitioners were employed by the Department as Casual Labourers and subsequently when it was brought to the notice of the Department, these Petitioners were not given further work because of the ban, and that action of the Department is a justifiable one. He has quoted a decision rendered by the Hon'ble Supreme Court reported as 1998-II-LLJ, Page 627, "Municipal Corporation of Bilaspur and another vs. Vir Singh Rajput and others". In that case, Supreme Court was pleased to hold that, where there were no vacancies and work was not available in the establishment and the appointment however are irregular, there cannot be any regularisation of service. Here, in this case also, there is evidence to show that these Petitioners were employed by the Department as Casual Labourers when there is ban for the same. Further, it is evidence of MW1 that there was no work available for engaging these Petitioners as Casual Labourers further for considerable time.

Hence, the decision of the Supreme Court is squarely applicable to this case.

9. On consideration of all the above facts in this case alongwith the evidence let in, this Tribunal can easily come to the conclusion that the Petitioners cannot ask for the reinstatement by the Department of Telecom as a demand and the termination of the Petitioner by the Deptt. of Telecom is legal and justified. Thus, I answer the point accordingly.

In the result, an award is passed holding that the Petitioner Workman is not entitled to any relief as the termination of his services by the Deptt. of Telecom, Chennai is legal and justified. No cost.

Dictated to the Stenographer and typed by him direct and corrected and pronounced by me in the open court on this day, the 21st November, 2000.

K. KARTHIKEYAN, Presiding Officer

Witness Examined

For Claimant|I Party : WW1, Sri V. Vajjiram
For Management|II Party : MW1, Sri M. Shanmugiah

Documents Marked

For Claimant|I Party :

- Ex. W1 — Certificate for the engagement of Mazdoors in Work-reg.
- Ex. W2 — Certificate for the engagement of Mazdoors in work.
- Ex. W3 25-9-95 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.
- Ex. W4 — Acknowledgement of W3.
- Ex. W5 31-10-97 Letter from Shri V. Vajjiram to the Chief General Manager, Telecom.
- Ex. W6 — Acknowledgement of W5.
- Ex. W7 — Certificate for the engagement of Mazdoors in work.

For the Management|II Party : None.

नई दिल्ली, 5 दिसम्बर, 2000

का. अ. 2798.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-2000 को प्राप्त हुआ था।

[सं. एल.-22012/119/98-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 5th December, 2000

S.O. 2798.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal|Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on 4-12-2000.

[No. L-22012/119/98-IR-(C-II)]

N. P. KESHVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT : Shri B.G. Saxena, Presiding Officer

Reference No. : CGIT-92/2000

Employers in relation to the management of W.C.L.

AND

Their Workman Shri Chandrakant Digambar Bhagat.

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-22012/119/98-IR(CM-II) dated 27-1-99 on the following schedule.

SCHEDULE

“Whether the action of the management of Hindustan Lalpeth Colliery of M/s. WCL, Chandrapur in dismissing Sh. Chandrakant Digambar Bhagat w.e.f. 31-7-97 is legal and justified ? If not, to what relief is the workman entitled ?”

This reference was sent to the CGIT Court No. 2 at Mumbai on 27-1-99 by the Ministry of Labour, New Delhi and the case was registered on 8-2-99. The workman Sh. Chandrakant Digambar Bhagat appeared in the court on 7-10-99 and the case was adjourned on his request for filing the Statement of Claim. On 3-12-99 the advocate filed Vakalatnama for the workman and requested for adjournment. The workman did not submit his claim on 4-1-2000, 18-2-2000 and 3-3-2000. The case was transferred to this court on 13-3-2000.

In this court also the counsel for the workman moved an application on 4-7-2000 and took time for filing statement of claim. This application of the advocate for the workman dated 4-7-2000 is on the file. The case was adjourned to 1-8-2000 as the counsel has mentioned in the application that he has to seek instructions from the workman who is staying in Chandrapur.

On 1-8-2000 neither the workman turned up nor his counsel appeared to submit the statement of claim. The case was adjourn to 19-9-2000 and 17-10-2000. On these dates also the counsel for the workman did not turn up and no statement of

claim was filed by the workman or his union. Today, also i.e. on 10-11-2000 the case was taken up at 12.10 p.m. Neither the counsel turned up to represent the workman nor the workman appeared to submit his statement of claim.

For WCL Sh. D. K. Chandok, Personnel Manager is present. He represented that the workman had absented himself from duty since 2-9-96 and chargesheet was issued to him on 17-9-96. After holding enquiry against him the workman was dismissed from service w.e.f. 31-7-97. He has submitted the copy of Chargesheet dated 17-9-96.

As the workman is regularly absenting and is avoiding to appear in the court since 4-1-2000 and his counsel is also avoiding to submit his statement of claim, there is no option but to close the case. The advocate of the workman very well knows that the case is fixed for hearing in this court but as mentioned in his application dated 4-7-2000 he did not seek instructions from his client and did not prefer to submit any statement of claim for the workman. The proceedings, therefore can not be kept lingering on. The reference is disposed off for want of prosecution.

ORDER

The reference is disposed off for want of prosecution. The workman himself did not submit any statement of claim and did not prefer to contest the case. The reference is disposed off for the want of prosecution.

Dated : 10-11-2000.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 5 दिसम्बर, 2000

का. आ. 2799—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-2000 को प्राप्त हुआ था।

[सं. एल-22012/309/97-आई आर ! (सी-II)]
एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 5th December, 2000

S.O. 2799.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on 4-12-2000

[No. L-22012/309/97-IR-C-II]

N. P. KESHAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT,
INDUSTRIAL TRIBUNAL, NAGPUR
PRESENT SHRI B. G. SAXENA, PRESIDING
OFFICER

Reference No.: CGIT-97/2000

Employers in relation to the management of
The Sub Area Manager, WCL

and

Their Workman Shri Pradeep Kumar Jain

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of sub-section (1) and Sub-section 2(A) of section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order no. L-22012/309/97/IR(CM-II) dated 25-8-98 on the following schedule.

SCHEDULE

"Whether the action of the management namely Sub Area Manager, M/s WCL, Padmapur Sub Area Open Cast not giving seniority to Mr. Pradeepkumar Jain than to Mr. Jeswani even though he has joined earlier to Mr. Jeswani is legal, proper and justified? If not, to what relief the workman is entitled or what other directions are necessary in the matter?"

In this reference Shri Pradeepkumar Jain has claimed that he is senior to Shri K. K. Jeswani. He has joined WCL Organisation on 19th July 1982 on the basis of appointment letter issued to him by the management of WCL through letter no. WCL/IR/SE/Estb-Staff/6306-09 dated 6-7-82 Shri K. K. Jeswani have joined WCL Organisation on 19th August 1982.

Shri P. K. Jain, therefore, claimed his seniority on this ground that he has joined service one month earlier than Shri K. K. Jeswani.

The management of WCL has contested the case on this ground that the seniority was determined by the Selection Committee on the basis of merit. In merit list Shri K. K. Jeswani is senior to P. K. Jain, claimant. The date of joining is, therefore, not relevant.

I have heard the representative of the union Shri D. M. Satpute, who represented Shri P. K. Jain. The management has been represented by the Personnel Manager of WCL Shri M. M. Ourashi. Both the parties have filed written arguments also.

I have considered the entire oral and documentary evidence produced by the parties. Shri Satpute has also submitted ruling AIR 1984 Supreme Court 886 Ramendra Singh and Others Vs Jagdish Prasad and Others with state of Bihar and Others Vs. Shyam Davel Pandey and Others.

The management has submitted that final list of Senior Overseers C(Civil) working at different headquarters was published and circulated all the Overseers (Civil). The management of WCL has submitted letter No. WCL/IR/SE/720/2804 dated

13-10-1998. In this list Shri K. K. Jeswani is shown at serial no. 22 and Shri P. K. Jain is shown at serial no. 31. The letter No. PM/15/89/957 dated 6th May '89 Exhibit M-1 is on file. In this letter it is mentioned by the management of WCL that the seniority list has been prepared on the recommendation of the selection committee in the order of merit/seniority as determined by the said committee has been taken as the basis for determination of seniority irrespective of the date on which the incumbent assumed charge of the post.

The letter No. WCL/IR/SE/834/4471 dated 1-10-1991 also shows that the matter of seniority of Shri P.K. Jain was considered by the management. Shri P. K. Jain was informed that Shri Jeswani was shown above to him in the seniority list. The seniority list have been prepared correctly. The copy of this letter was also sent to Shri P. K. Jain.

The management has submitted the merit list prepared by the Selection Committee after interview held on 15th to 22nd November 1981. In this list Shri K. K. Jeswani has been shown at Serial No. 26 and Shri P. K. Jain has been shown at serial no. 39. The above merit list therefore shows that Shri K. K. Jeswani is senior to Shri P. K. Jain.

The ruling submitted by Shri D. M. Satpute AIR 1984 Supreme Court 885 is not applicable in this case because in that case the petitioner Overseers had already been appointed by the Selection Committee under the rules constituted in PWD Code and other Sub-Overseers had joined service from the date of publication of their result of the diploma in Mechanical/Electrical Engineering examination. The above ruling therefore does not support the claim of the workman and is not applicable in this case.

When the merit list has been prepared for the selection of the post referred to above then the position in the merit list will determine the seniority and not the date of joining.

From the documents submitted by the management, it is established that Shri K. K. Jeswani is senior to the workman, Shri P. K. Jain. The appointment letter of Shri K. K. Jeswani was also issued by the management of WCL on 15-5-82. The appointment letter of Shri P. K. Jain was issued on 7-7-82. This letter is Annexure-III.

The representation of Shri P. K. Jain to Director Personnel, WCL also shows that the appointment letter of K. K. Jeswani was issued earlier by the management and Shri P. K. Jain was therefore not given notional seniority.

Considering the entire oral and documentary evidence on record, I therefore hold that the action of the management in not giving seniority to Shri Pradeepkumar Jain, above Jeswani is legal, proper and justified.

ORDER

The action of the management, namely Sub Area Manager, M/s. WCL, Padmapur Sub Area Open Cast not giving seniority to Pradeepkumar Jain than to Mr. Jeswani even though he has joined earlier to Mr. Jeswani is legal, proper and justified.

The workman is not entitled to any relief.

The reference is answered accordingly.

Dated : 23-11-2000.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 5 दिसम्बर, 2000

का अा 2800--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसूच में, केन्द्रीय सरकार इल्यूसी.एल. के प्रवन्धन के संवद्ध नियोजकों और उनके कर्मकारों के बीच, अनुसूच में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-12-2000 को प्राप्त हुआ था।

[स. एल-22012/404/97-सी. II]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 5th December, 2000

S.O. 2800.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of W.C.L. and their workman, which was received by the Central Government on 4-12-2000

[No. L-22012/404/97-C-II]

N. P. KESHVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. SAXENA, Presiding Officer.

Reference No. : CGIT-110/2000

Employers in relation to the management of W.C.L.

AND

Their workman Shri Bharat Nanaji Gaurkar.

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause, (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-22012/404/97/IR(CM-II) dated 12-11-1998 on the following schedule.

SCHEDULE

"Whether the action of the management namely, General Manager, M/s. WCL, Majri Area, Kuchana, Distt. Chandrapur in terminating the services of Sh. Bharat Nanaji Gaurkar, Ex-General Mazdoor w.c.f. 25-2-97 is legal and justified? If not, to what relief is the workman entitled and from which date?"

Bharat Nanaji Gaurkar has submitted his statement of claim that he was selected for appointment to the post of General Mazdoor and was directed to report for vocational training on 30-4-96. He was appointed as General Mazdoor vide order dated 1-11-96 for a period of three months.

Since 1-11-96 he was in service and had participated as Volley Ball player in the Tournaments and represented Western Coal Fields Ltd., Majri, Chandrapur. He participated in the Tournaments at Calcutta also, from 28-5-97 to 8-6-97. He returned from Calcutta on 11-6-97, but was not allowed to join duty. He was informed that his service was terminated from 25-2-97. The management of WCL had not given any notice to him before termination and no other retrenchment benefits were given to him. He has prayed for his reinstatement from 25-2-97 and payment of arrears of salary from 25-2-97 to 11-6-97.

The management, in their Written Statement disputed the claim. The contention of WCL is that, he was appointed for three months only from 1-11-1996 and his term of service expired on 31-1-97. He had participated in the Tournament in January, 1997 and had returned on 25-2-97 so, on 25-2-97 he was informed that he is no longer in service. He was never sent to Calcutta to play Volley Ball Tournament by the management of WCL and the question of termination of his service on his return from Calcutta on 11-6-97 does not arise.

I have heard the arguments of both the parties. Both the parties have submitted their written arguments. The evidence of both the parties was also recorded in this court.

I have considered the entire oral and documentary evidence on record.

The counsel for the management argued that from 24-4-96 to 1-11-96 the workman was not in service. On 24-4-96 he had reported for training. On 1-11-96 he was appointed for three months.

The counsel for workman has mentioned in written argument that from 24-4-96 to 24-2-97 the workman was in service and he has put in 300 days service i.e. service for more than 240 days, hence his termination is illegal. The provisions of Section 25 N and 25 G have not been complained with.

The workman has himself mentioned in the statement of claim that he had joined service on 1-11-96. He was sent for training on 24-4-96. He does not say that his training was from 24-4-96 to 1-11-96. For how many days he was in training is also not mentioned by him. It is therefore clear that his appointment was made as a General Mazdoor. His appointment letter was issued on 1-11-96 and he was appointed only for three months. The period of his service was only three month i.e. from 1-11-96 to 31-1-97. After 31-1-97 the term of service was not extended. There is no document on file to show that he was issued any appointment letter after 31-1-97.

In cross-examination on 7-11-2000 the workman has himself admitted that he was terminated from service on 25-2-97. He was paid only three months salary. He did not make any complaint in writing

that his service was orally terminated. He did not produce any record for his attendance after 25-2-97. He had not received any letter for returning from Calcutta in June 1997. He had not received any order from any Area Manager to go to Calcutta to play the Volley Ball in May, 1997. He was not paid any T.A. and D.A. for attending the Calcutta Sports events in June, 1997. Thus, from statement of workman Bharat Nanaji Gaurkar about, his claim is totally shattered. There is nothing on record to prove that he continued in service upto June, 1997.

The statement of S. K. Bhargav, Deputy Chief Personnel Manager also shows that the workman was employed for three months i.e. from 1-11-96 to 31-1-97. No order for continuing him in service after 1-2-97 was issued. His service automatically discontinued on 31-1-97. He had returned from Tournament on 25-2-97 but his duty period was not treated as continued upto 25-2-97.

In view of the above facts and evidence on record the workman did not work in any capacity for 240 days with the management of WCL. His claim is totally baseless.

The ruling 1998 1 CLR 1043, Uptron India Limited Vs. Shammi Bhan and another is not applicable in this case as the workman was not the permanent employee.

Another ruling 1997-1-CLR 872 of Hon'ble Bombay Court, Mahindra and Mahindra Ltd. Vs. Digambar G. Pawaskar and others, is also not applicable in this case as the workman did not continue in service after three months.

The counsel of workman has also cited ruling 1996 1 LLJ page 888 of Hon'ble Supreme Court, State of Rajasthan and others vs. Rameshwar Lal Gahlot. In the aforesaid ruling it is held that person appointed for three months or till regularly selected candidates joins—termination of appointment is in accordance with the order of appointment—Appointment for fixed period and the termination in accordance with such appointment is not illegal.

In view of the above ruling the termination of the workman after three months was fully justified.

The other ruling 1995-1-CLR 942, Alexandar Yesudas Maikel Vs. Perfect Oil Seals and IRP and Others is also not applicable in this case because the workman had not completed 240 days service.

In view of the above facts and evidence on record, I therefore hold that the case of workman does not fall under Section 2(oa)(bb) of I.D. Act.

The action of management namely General Manager, WCL in terminating the service of workman Bharat Nanaji Gaurkar is legal and justified.

ORDER

The action of the management namely General Manager, M/s. WCL, Majri Area, Kuchana, Distt. Chandrapur in terminating the service of Bharat Nanaji Gaurkar, Ex-General Mazdoor is legal and justified.

The workman is not entitled to any relief. His services discontinued from 31-1-97 as he was employed only for three months i.e. from 1-11-96 to 31-1-97.

No costs.

Dated : 16-11-2000.

B. G. SAXENA, Presiding Officer.

नई दिल्ली, 24 नवम्बर, 2000

का. आ. 2801—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-11-2000 को प्राप्त हुआ था।

[सं. एल-12011/21/2000—आई आर (बी-II)]
सी. गंगाधरण, अवसर सचिव

New Delhi, the 24th November, 2000

S.O. 2801.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 23-11-2000.

[No. L-12011/21/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SARVODAYANAGAR,
KANPUR

Industrial Dispute No. 51 of 2000

In the matter of dispute :

BETWEEN

The General Secretary,
Allahabad Bank Staff Association,
C/o Sri B. P. Saxena,
426-W-2 Basant Vihar,
Kanpur-208021.

AND

Allahabad Bank,
Assistant General Manager,
Allahabad Bank Regional Office,
117/H-1/68-A Pandu Nagar,
Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12011/21/2000-IR(B-II) dated 16-6-2000 has referred the following dispute for adjudication to this Tribunal—

“Whether the action of the management of Allahabad Bank, Kanpur in terminating the services of Smt. Kalawati Ex-part time Sweeper w.e.f. 3-5-99 is just, fair and legal? If not what relief she is entitled to and from what date?”

2. In this case after receipt of reference order registered notices dated 17-8-2000 and 20-9-2000 were sent to the union for filing of claim statement but none appeared in the case nor statement of claim is filed. Thus it appears that despite availing of sufficient opportunity the workman and her union are not interested in pursuing her case. Under these circumstances, this tribunal is left with no other option but to hold that the workman is not entitled for any relief for want of pleadings and proof, in pursuance to the reference made to this tribunal.

3. Reference is answered accordingly : against the workman.
Sd/-

R. P. PANDEY, Presiding Officer

Dt. 10-11-2000.

नई दिल्ली, 24 नवम्बर, 2000

का. आ. 2802—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-2000 को प्राप्त हुआ था।

[सं. एल-12011/43/2000—आर आई (बी-II)]
सी. गंगाधरण, अवसर सचिव

New Delhi, the 24th November, 2000

S.O. 2802.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 24-11-2000.

[No. L-12011/43/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SARVODAYA NAGAR,
KANPUR

Industrial Dispute No. 56 of 2000

In the matter of dispute :

BETWEEN

The Regional Secretary,
Central Bank of India,
Employees Union,
Balwant Nagar,
Sikandara,
Agra.

AND

The Regional Manager,
Central Bank of India,
Sanjay Place,
Zonal Office,
Agra.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12011/43/2000-IR(B-II) dated 23-6-2000 has

referred the following dispute for adjudication to this tribunal—

"Whether the action of the management of Central Bank of India in denying the posting of CTO's to Sri A. K. Bhardwaj, Sri D. C. Goel and Sri A. K. Agrawal after making an agreement with the majority union is valid or not? If not what benefit the employees are entitled for?"

2. In the instant case after receipt of the reference order from the Government of India Ministry of Labour, New Delhi, registered notices dated 17-8-2000 and 21-9-2000 were sent to the union raising dispute on behalf of the workmen to file statement of claim. It is obvious from the reference order itself that the Government of India, Ministry of Labour, while referring the matter to this tribunal too had directed the union which has raised the present dispute to file statement of claim complete with relevant documents, relied upon and witnesses before this tribunal within fifteen days from the date of receipt of the present reference order, but the union did not avail the opportunities given to it nor it filed statement of claim. Thus from the conduct of the union raising the present dispute it becomes clear that at least interested in pursuing the present dispute.

3. In view of foregoing discussions, the tribunal is left with no other option but to hold that the union is not interested in pursuing the case and accordingly it is held that the employees concerned is not entitled for any relief for want of pleadings and proof in the case.

4. Reference is answered accordingly against the workman.
Sd/-

R. P. PANDEY, Presiding Officer

Dt. 10-11-2000.

नई दिल्ली, 24 नवम्बर, 2000

का. आ. 2803.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-11-2000 को प्राप्त हुआ था।

[सं. एल-12012/21/93—आई आर (बी-II)]
सी. गंगाधरन, अव्वर सचिव

New Delhi, the 24th November, 2000

S.O. 2803.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 22-11-2000.

[No. L-12012/21/93-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

CASE NO. CGIT/LCLRL120/96

Presiding Officer, Shri K. M. Rai.
Shri Sudarshan Lal Dubey,
Ravi Shankar Ward,
Jabalpur.

Applicant.

Versus

Sr. Divisional Manager,
Life Insurance Corporation,
Nagpur Road,
Jabalpur

Non-applicant.

AWARD

Delivered on this 14th day of November, 2000

1. The Government of India, Ministry of Labour vide order No. L-12012/21/93-IRB.II dated 24-4-97 has referred the following dispute for adjudication by this Tribunal :—

"Whether the claim of Shri Sudarshan Lal Dubey that he was a workman of LIC of India under the I.D. Act, 1947 and that the LIC management have terminated his services illegally is correct and justified? If yes, what relief the concerned workman is entitled to?"

2. The case for the workman is that he was working as agent since 1972 under the direct control and supervision of the Divisional Manager, LIC of India, Jabalpur. He worked continuously with utmost sincerity and honesty. He was required to work as per directions given by the Divisional Manager, LIC, Jabalpur and therefore the Divisional Manager is an employer and hence ultimate control over the work done by the applicant. On 11-2-88, an explanation was sought from him and he also submitted his explanation on 23-2-88. Thereafter a show cause notice dated 25-4-88 was issued to him by the management making frivolous allegations against him. He submitted his reply to the show cause notice. He refuted all allegations made against him. Without conducting any DE, the Divisional Manager, LIC, Jabalpur terminated his agency on 2-2-90. He preferred an appeal against the said order before the Zonal Manager who on 28-4-92 passed the order with direction that he can be appointed as a fresh agent if he so desires. In view of this order, the workman was appointed as fresh agent by the management in the year 1992.

3. The applicant further alleges that there is an employee employer relationship between the parties and therefore the termination of previous agency is to be quashed reinstatement of the bank (previous agency) and other benefits be ordered to be given. The termination of agency is absolutely illegal which deserves to be quashed.

4. The case for the management is that LIC of India is statutory corporation duly established under the provisions of LIC Act 1956. Under Sec. 49 of the Act, the corporation has been authorised to frame regulations giving the terms and conditions of service of the staff of the corporation. Accordingly the corporation in exercise of the powers vested in it under clause B and 'BB' of sub-section 2 of Sec. 49 of the Act and with the previous approval of the Central Government made the regulations called the Life Insurance Corporation of India (Staff) Regulations, 1960 to exclude Insurance Agents from the definition of employee. The relevant provision is as under :—

"application :

They shall apply to every whole time salaried employee of the corporation unless otherwise provided by the terms of any contract, agreement or letter of appointment.

Explanation :

Employee excludes insurance agents and work charge employees whose salaries are charged to particular property/properties or work/works. In the case of female employee 'he' and 'his' are to be read as 'she' and 'her'."

5. In view of the aforesaid provision, the applicant cannot be called an employee of the LIC as contended by him. No salary is paid to the Insurance agent and he does not sit in the office as well. an insurance agent gets the commission for the business procured by him. He is not required to sit in the office of the corporation as well as there are no fixed working hours for him.

6. The LIC in exercise of his powers vested in it under Sec. 49 of the Act and with the previous approval of the Central Government has made the LIC of India (Agent)

Regulations 1972 for the appointment of agent in India to procure Life Insurance Business. Under the various provisions of this regulation of 1972 the insurance agents are selected and they undergo training in respect to the Life Insurance Business. They get commission for procuring the insurance business. Regulation 16 provides for termination of the agency for certain lapses mentioned 'hereafter'—

1. The Competent Authority may, by order, determine the appointment of an agent.

- (a) If he has failed to discharge his functions, as set out in regulation 8, to the satisfaction of the competent authority.
- (b) If he acts in a manner prejudicial to the interests of the corporation or to the interests of its policy holders;
- (c) If evidence comes to its knowledge to show that he has been allowing or offering to allow rebate of the whole or any part of the commission payable to him.
- (d) If it is found that any averment contained in his agency application or in any report furnished by him as an agent in respect of any proposal is not true.
- (e) If he is physically or mentally incapacitated for carrying out his functions as an agent
- (f) If he being an absorbed agent, on being called upon to do so fails to undergo the specified training, or to pass specified tests, within three years from the date on which he is so called upon.

Provided that the agent shall be given a reasonable opportunity to show against such termination.

7. The provisions of above said Regulation of 1972 read with Regulation-2 of 1960, the insurance agent cannot be held to be an employee of the corporation. In such a circumstance, the provisions of I.D. Act 1947 shall not apply.

8. The management further alleges that the agency of the applicant was terminated after giving him an ample opportunity to explain the charges levelled against him. His explanation was not found satisfactory on the circumstances of the relevant cases. He preferred an appeal before the Competent Authority who rejected his appeal and alternatively directed the management that the workman be appointed fresh agent if he so desired. The workman was appointed as fresh agent in the year 1972 and he accepted the same. The applicant is also working as agent of LIC. The provisions of I.D. Act, 1947 does not apply in the instant case as the relationship of employer-employee does not exist between the parties and therefore the claim of the applicant deserves to be rejected.

9. The management has objected the maintainability of this reference on the basis that no relationship of employer and employee exists between the parties in view of the provisions of Regulation-2 of the LIC (Staff) Regulation 1960. The argument was heard on this objection and it has been treated as preliminary issue for determination for which the finding is being given here-in-after.

10. Admittedly the Life Insurance Corporation of India has been established under the provisions of the Life Insurance Act, 1956 (Act No. 31 of 1956), under Sec-49 of this Act, the Corporation has been authorised to frame regulations giving the terms and conditions of service of the staff of the Corporation. Accordingly the corporation in exercise of the powers vested in it under clause (b) and (bb) of Sub Sec-2 of Sec-49 of the Life Insurance Corporation Act and with the previous approval of the Central Government made the regulations called the Life Insurance Corporation of India (Staff) Regulation 1960. Regulation 2 excludes insurance agents from the definition of "Employee". The said provision is as under:—

- 2 Application: They shall apply to every time salaried employee of the corporation (in India) unless otherwise provided by the terms of any contract agreement or letter of appointment.

Explanation: "Employee" excludes insurance agents and work charge employees whose salaries are charged to particular property/properties of work/works. In the case of female employee "he" and "his" are to be read as "she" and "her".

11. The aforesaid provision of Regulation-2 of the Life Insurance Corporation of India (Staff) Regulations 1960. The insurance agents have been excluded from the definition of employee of the corporation. In view of this said provision of the said enactment, the insurance agents cannot be held to be whole time salaried employee of the corporation. The insurance agents are appointed by the Life Insurance Corporation of India under the provisions of Regulation-4 of the Life Insurance Corporation of India (Agents) Regulations 1972. The provisions of this Regulation are applicable to the Insurance agent appointed in India by the LIC in respect of Life Insurance Business. These agents are appointed for the purpose of procuring Life Insurance Business for the corporation for which the commission is paid to them. The quantum of commission, paid to the agents, is in proportion to the Life Insurance Business procured by them. A fixed monthly salary is not paid to these agents and the provisions of Regulation-1960 are not applicable to them. The appointment of Insurance agents is done exclusively under the provisions of Regulations Act, 1972.

12. When the appointments are regulated by the statutory rules, the concept of industry to that extent stands excluded as held in 1997-Supreme Court cases (4)-391-Himanshu Kumar Vidyarthi versus State of Bihar. In the instant case, as already discussed earlier, the insurance agents have been specifically excluded from the definition of employee of the Life Insurance Corporation of India as per regulation-2 of the Life Insurance Corporation of India (Staff) Regulations 1960. If the insurance agents are not the employees of the LIC then they cannot claim any benefit under the provisions of Industrial Dispute Act, 1947 as held by the Supreme Court in the case of Himanshu Kumar Vidyarthi versus State of Bihar.

13. In the light of foregoing discussions, it is held that the applicant Shri Sudarshanlal Dubey is not a workman of Life Insurance Corporation of India and therefore the provisions of Industrial Dispute Act 1947 are not applicable in the present dispute. He is not entitled to any relief as claimed by him. He is free to agitate the present dispute before the proper forum for adjudication. The reference is accordingly answered.

14. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 24 नवम्बर, 2000

का. आ. 2804.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय पूणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-11-2000 को प्राप्त हुआ था।

[सं. एल-12012/61/99-आई आर (बी-II)]

सी. गंगाधरण, अव्वर सचिव

New Delhi, the 24th November, 2000

S.O. 2804—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Pune as shown in the annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman which was received by the Central Government on 22-11-2000.

[No. L-12012/61/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI P. S. NARKAR, PRESIDING OFFICER,
I LABOUR COURT, PUNE

Reference IDA No. 551/99

The Divisional Manager, UCO Bank,
Opp. Sangam Press,
Kothrud, Pune,
(Maharashtra)-411 029.

-- I Party

AND

The General Secretary,
C/o UCO Bank Employees Union,
C/o UCO Bank,
79, M. G. Road, Pune,
(Maharashtra)-411 001.

— II Party

Subject :—Non-regularisation of service of Shri Mahindra J. Pardeshi.

APPEARANCES :

Parties absent.

AWARD

1. The Dy. Commissioner of Labour, Pune has made this Reference under Cl. (d) of Sub-section (1) of Section 10 of the I.D. Act for adjudication of an industrial dispute within the meaning of Section 2A of the said Act between the above parties over the following demand :—

“Whether the action of the management of UCO Bank in relation to its Divisional Office, Pune for non-regularisation of service of Shri Mahindra J. Pardeshi, daily wage Sweeper, Kondwa Branch is legal and justified? If not, what relief the workman is entitled to?”

2. Both parties are absent, though duly served vide Ex 2 & 5. Hence reference is disposed of for want of prosecution.
Pune.

Dated : 24-10-2000.

P. S. NARKER, Presiding Officer,
I Labour Court, Pune.

नई दिल्ली, 28 नवम्बर, 2000

का. आ. 2805.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओस्टापल क्रोमाइट माईन्स के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2000 को प्राप्त हुआ था।

[सं. एल-29012/115/95-आई आर (एम)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 28th November, 2000

S.O. 2805.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Ostapal Chromite Mines of Facor and their workman, which was received by the Central Government on 23-11-2000.

[No. L-29012/115/95-IR(Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA BHUBANESWAR

PRESENT :

Sri A. K. Samantaray, OSJS (Sr. Branch), Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute case No. 21 of 1996 (Central)
Dated, Bhubaneswar, the 17th November, 2000

BETWEEN :

The management of Ostapal
Chromite Mines of Facor,
Laxmi Bhawan, Khana,

P.O. Dist., Bhadrak. .. First Party-management. →

AND

Their workman Sri Sudarsan Barik,
Ex-Field Attender,
At : Kharipadia, P.O. Pimpala
Madhab, Via : Tirana, District :
Jagatsinghpur. .. Second Party-workman.

APPEARANCES :

Sri A. K. Malik, Law Officer.—For the First Party-Management.

Sri Sudarsan Barik.—The Second Party-workman himself.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/115/95-IR(Misc.) dated 25-4-96 :—

“Whether the action of the Executive (Mines), FACOR in terminating the services of Shri Sudarsan Barik, Field Attender without showing sufficient ground is justified? If not, to what relief the workman is entitled to?”

2. The case was posted today for hearing. The second party-workman Sri Sudarsan Barik being present in the Court states that at present there subsists no dispute between him and the management and accordingly he prays to pass a no dispute award in the case. The representative of the management, who is also present states that the dispute under reference has already been settled between the management and the workman. In the circumstance, when the workman does not want to press the dispute and prays to pass a no dispute award. I have no other alternative than to pass a no dispute award in so far as the present reference is concerned.

A. K. SAMANTARAY, Presiding Officer.

नई दिल्ली, 4 दिसम्बर, 2000

का. अ. 2806.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स इंडियन एयरलाइंस लिमि. के प्रबन्ध-तंत्र के संबंध में नियोज्जकों और उनके कर्मचारियों के बीच, अन्तर्बन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 29-1-2000 को प्राप्त हुआ था।

[सं. एल-11012/136/98-आई आर (सी-1)]
एस. एस. गुप्ता, अव. सचिव

New Delhi, the 4th December, 2000

S.O. 2806. In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines Ltd. and their workman, which was received by the Central Government on 29-11-2000.

[No. I-11012/136/98-IR(C-1)]
S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, I AT
HYDERABAD

PRESENT :

Sri Syed Abdullah, B.Sc., B.L.,
Industrial Tribunal-I, Hyderabad
Dated : 27th day of October, 2000
Industrial Dispute No. 39 of 1999.

BETWEEN :

Ms. J. Padmaja, H. No. 12-11-1393/4,
Raghavendranagar,
Secunderabad-500061. Petitioner

AND

The Regional Director,
Indian Airlines Limited,
Northern Region, Safdarjung Airport,
New Delhi-110001. Respondent

APPEARANCES :

M/s. Padmaja & P. Aruna, Advocates for the
Petitioner.

M/s. K. Srinivasa Murthy, Umadevi and
C. Vijaya Sekhar Reddy, Advocates for the
Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its order No. L-11012/136/98-IR(C-I), dt. 18-5-99 referred the following Industrial Dispute under Section 10(1)(d) and Sub-Section 2(A) of Industrial Disputes Act, 1947 for adjudication :
2354 GI/2000-14

"Whether the action of the management of Indian Airlines Ltd., in dismissing Ms. J.U. Padmaja, Air Hostess over alleged furnishing of false information is justified. If not to what relief the employee is entitled?"

Both parties appeared and filed their respective pleadings.

2. Briefly stated the averments made in the claim statement of the work-woman is as under : Ms. J.U. Padmaja petitioner herein had applied for the post of Air Hostess and submitted the application dt. 23-5-89. She was selected in the interview and given appointment as Airhostess on 26-2-1990. Which she was working, she was chargesheeted on 7-1-1993/12-1-1993 under clause 16, 4, 16, 3 and 16, 28 of Standing Orders that she committed fraud and dishonesty in connection with the business of the corporation which is a violation of standing order or any law of Rules applicable to the establishment as the act of commission is subversive of discipline or of good behaviour in the premises of the establishment and giving false information relating to her employment respectively. Subsequently an enquiry was conducted and the Enquiry Officer found guilty of all the charges as there was no proper assistance rendered to her nor was any explanation about the way in which the Enquiry was conducted. Basing on the report of the Enquiry Officer, show cause notice was issued on 15-10-93 for which she submitted her explanation on 20-10-93. Ultimately she was dismissed from service by an order dated 11-5-1994.

3. The reading of false information regarding name, age etc., would show that furnishing information regarding the marriage is outside the scope of the said clause. So far as the misconduct mentioned in other clauses are concerned, no oral or documentary evidence was recorded by the Enquiry Officer. She got married on 13-1-1987 with one Mr. Vijay Gedam at Chandrapur Maharashtra with whom her association was hardly for a week. In fact the marriage was not even consummated. Before the marriage he has another woman this fact was admitted by him before the Vigilance Officer during the course of enquiry. Under Hindu Marriage Act her marriage with Mr. Vijay is a void one as he had a married wife. Hence she was not charge sheeted under clause 16, 28. After dismissal he filed an appeal which is pending. Unless the appeal is disposed of the statutory authority is not competent to dismiss her from service. She further submits that in a similar case one Ms. Mari Mathews Air Hostess who was dismissed on similar grounds was reinstated and at present she is working at Madras. Therefore she should have been reinstated into service in a similar circumstances. Therefore she prays that she may be reinstated into service with full backwages.

4. The respondents counter in brief is as under : The respondent gave an advertisement calling applications from unmarried girls of Indian Nationality for the post of Airhostesses, on 27-2-89. In response, the petitioner submitted her application after filling up the columns declaring herself as single relating to marital status. She was offered appointment to the post of Airhostess on the basis of her application. Subsequent to the appointment, the management came to know that the petitioner was married to one Mr. Vijay Gedam on 13-1-1987 who is working in the shipping

corporation of India who confirm about the marriage. Hence she was charge sheeted for giving false information. Departmental enquiry was conducted. She made a clear admission about her marriage and subsequent divorce. On the date when application was submitted by her for the post on 5-4-89 she was a married lady and the subsequent divorce does not convert her to the status of an un-married woman. It is not open to the petitioner to contend that the subsequent divorce claimed to have taken on 2-10-1991 would give her the status of unmarried woman as on 5-4-89. Wrong declaration regarding marital status comes within the category of committing an act of fraud and dishonesty so also breach of Standing orders or any law or Rules applicable to the Establishment as contained in clause 16.4, and 16.8 of standing orders with applicability to this case. After giving full and fair opportunity by the Enquiry Officer she was found guilty of the charges against her. Even National Industrial Tribunal, Mumbai also approved action taken by the Management in dismissing the petitioner from service. From the record it does not appear that the petitioner filed any appeal or review. Hence, prayed not to grant the relief prayed for.

5. A memo was filed by the petitioner on 4-10-99 that she has no grievance about the domestic enquiry that was conducted, and nevertheless the allegations levelled against her is not a misconduct as per the Standing Orders of the respondent and it is further submitted that she reserves her right to question the findings of the Enquiry Officer as perverse and devoid of any legal evidence and without prejudice to the objections the allegations in the charge sheet does not amount to misconduct under the Standing Orders.

6. A reply memo was filed by the respondent stating that having once held that the Enquiry held was valid and the respondent has no grievance against the enquiry, it is not open to the petitioner to contend that the findings are perverse and without legal evidence or the allegations in the charge sheet does not amount to misconduct. Hence the only question would be to consider the quantum of punishment and the memo filed by the petitioner may be rejected.

7. An Additional Counter was filed by the Respondent on 7-2-2000 stating that against the order of National Industrial Tribunal in AA. No. NTB-26/24 dt. 8-8-97 granting the approval of the action taken by the management the petitioner chose to move the Hon'ble Supreme Court by filing a Special Leave Petition No. CC2517/98 and subsequently the petitioner withdrawn the said S.L.P. when the special leave petition has been dismissed the petitioner is not entitled to move the Industrial Tribunal against the order of termination. Hence on this ground alone her claim petition may be dismissed. The petitioner has not brought the said fact about filing of S.L.P. by her. Hence her claim may be dismissed.

8. The point for adjudication is whether the action of the management in dismissing the petitioner from service on alleged information, is justified? If not to what relief she is entitled to?

9. It is argued by the learned counsel for the petitioner that even though it was conceded that the Enquiry conducted is valid, still this Tribunal has to

consider the merits of the case and see whether the punishment is proportionate or not. She submits that the petitioner was appointed as Air Hostess on her written application dt. 5-4-89 and followed by another application dt. 23-5-1989. On her successful interview she was appointed on 26-2-1990. She was charge sheeted on 7-1-1993 alleging that she has given false information in her application mentioning that she is an unmarried workman, the reason for mentioning the said fact though she married to one Mr. Vijay Gedam on 13-1-1987 as the marriage lasted hardly for a month and afterwards it ended in Divorce. So for all purpose she is an unmarried and having been placed in such circumstances it was stated so but not with an evil intention and in order to lessen burden on her father she applied for a job mentioning as 'unmarried'. Further she submits that as per the decision reported in 1989(i) LLJ Page 71 (S.C.) Scooter India Limited, Lucknow gone to Labour Court and the Labour Court held that enquiry was valid and yet ordered for reinstatement with 75 percent backwages and against that order the management went to Hon'ble Supreme Court which ended in dismissal.

10. She relied upon a judgement in the case of Indian Farmers Fertilizers Corporation Limited vs. P.O. Labour Court, reported in 1999(1) LLJ Page 1040 (SC) where the petitioner's services were dismissed yet the Labour Court ordered for reinstatement with 50 per cent back wages and the order of Labour Court was upheld by the Hon'ble Supreme Court.

11. She also relied on a case law as far back as 1996-I L.L.J. Page 417 Bombay Labour Union vs. International Franchises (Pvt.) Limited wherein it was held that 'it is too late in the day to stress the absolute freedom of the employer to impose any condition of employment'. It is always open to Industrial adjudication to consider the conditions of employment of Labour and to vary them if it is found necessary. Such a rule should be abrogated in the interest of social justice, "Wherein the condition was that one of the service condition that un-married woman employee of National Franchises (Pvt.) Limited have to resign after they got married. Their lordship held". The rule which is in force in the respondent concern however assumes that merely by marriage the efficiency of the woman employees is impaired and such an assumption, in our opinion, is not justified.

12. The learned counsel also relied on ATR 1979 SC Page 1869 Miss C. B. Muthamma vs. Union of India and others wherein their lordships dealt with Article 14 and 16 of Constitution of India—Sex discrimination—Female employee in Government Service Provision requiring permission before marriage and denial of right to employment to married woman—Both requirements are discriminatory (Indian Foreign Service) (Conduct and Discipline) Rules, 1961 and Indian Foreign Service (Recruitment, cadre seniority and promotions) Rules 1961. So she submits that the very conditions imposing the ban of employment on married woman is itself wrong and not only that this Tribunal was pleased to call for the records of two other supposed in similar circumstances one Ms. Maina who is now working as Air Hostess, has produced her caste certificate and on the strength of it she was recruited as Air Hostess.

13. This Tribunal was pleased to call for the records of Miss Maina that she on coming to know that action will be taken against her on furnishing false caste certificate, has resigned in 1995 and again reappointed in 1997. What was the reason for her resigning and what was the reason for her appointment except that she has filed a false certificate. When this Tribunal called for the record perhaps the papers were not produced as to why she tendered her resignation and why it was accepted and that she was reinstated. Further another Air Hostess Ms. Mary Mathews who was dismissed on similar grounds and was again reinstated. This Tribunal called for the documents. As permit, it is clear from the letter dated 27-3-78 that she was dismissed on furnishing wrong information that she was unmarried although she was married. Subsequently she was appointed as Passenger Facilitation Assistant vide letter of appointment dated 18-5-1981.

14. The learned counsel further submits that why discrimination although irregularity committed by Mary Mathews on furnishing wrong information that she was married but she gave it as unmarried. Again she was appointed as Passenger Facilitation Assistant. However in the case of another employee Ms. Maina, she was again appointed as Air Hostess in 1997 although she resigned in 1995. Of course the other documents as to why she gave resignation and those things were not produced. So this discrimination is also violative of Articles 14 & 16 of constitution of India. Perhaps the condition is also not there. She further submits that there is no bar in marrying immediately after appointment. Hence the condition is against the article 14 as held by Hon'ble Supreme Court in AIR 1979 SC Page 1866. It is not known in what way the marriage would fail the efficiency of the employee. But more so in view of the discriminatory action in view of Ms. Maina who gave false caste certificate and resigned from 9-2-95 and again re-appointed from 16-7-1997 as Air Hostess and in view of Marry Mathew who was dismissed on 27-3-78 on false information that she was married and she was again re-appointed as Passenger Facilitation Passenger so the learned counsel submits that in view of the said circumstances which have come into enquiry and further very fact before the matter came to the notice of the Air Lines, she was divorced on 2-10-1991. Placed in the peculiar circumstances and the very fact by then the marriage had come to end and it was not consummated, this Tribunal may take lenient view and reinstate her with back wages.

15. Repealing the above contentions, it is argued by the learned counsel for the respondent that the dismissal of Miss. Padmaja was approved on 8-8-1997 by the National Industrial Tribunal, in Approval Application No. NTB. 26 of 1994, aggrieved by it. Ms. Padmaja moved the Hon'ble Supreme Court directly on the said order and when the matter came up for consideration on 5-3-1998 she had withdrawn the Special Leave Petition without any liberty to file separate petition and the said order of the Hon'ble Supreme Court was filed which is "Learned Counsel for the petitioner seeks leave to withdraw the special leave petition. The special leave petition is, accordingly, permitted to be withdrawn". It is further argued by the learned counsel for the respondent that no

right was reserved to file a separate petition or pursue any alternate remedy. Hence withdrawal of the Special Leave Petition accesses to Res Judicata. Therefore the present Industrial Dispute is not maintainable. For that the learned counsel relies on AIR 1984 SC Page 516—Workmen of M/s. Hindustan Lever Limited vs. Management of Hindustan Lever Limited. It is held that "Industrial Dispute—Principles of res judicata do not apply—Principles analogous to res judicata apply—Agreement by employer not to raise question of status of employee before Tribunal. No estopped against status—Tribunal cannot decide the jurisdiction fact". Their Lordship at Para 26 of the said judgement stated that "the agreement binds both the parties and when once the agreement is held to be binding, the employer is estopped from contending that the workmen involved in the dispute who were salesmen were not workman the meaning of the expression under the Act. Therefore the Tribunal was in error in understanding to examine that contention and answer it. That part of the order/award of the Tribunal is unsustainable and must be quashed and set aside". He also relied upon the judgement (1998) Supreme Court cases 732—(M. H. Devendrappa and Karnataka State Small Industries Development Corporation). Wherein it was held that "Fundamental Freedom vis-a-vis conduct rules framed for employees. Held, freedom have to be read harmoniously so that conduct rules, which are reasonably required in furtherance of one freedom are not struck down as violating other freedom. So he also submits that this Tribunal is bound by the reference is only and the reference is on the issue as dismissal is valid or not. So this Tribunal cannot deal with the cases of the other employees Maina and Marry Mathews. For this proposition, he relies on 1979(38) FLR Page 38 (SC)—Pottery Mazdoor Panchayear vs. The Perfect Pottery Company Limited wherein it was held that, "Reference—Adjudication of—Scope of Power of Tribunal—reference limited to question whether closure was proper and justified—Tribunal had no jurisdiction to go behind fact of closure and inquire whether business was in fact closed". So he submits here the question is whether dismissal of Padmaja is justified or not. It is not referred whether the reinstatement of Ms. Maina and Marry Mathews is justified or not. So this Tribunal is not competent to take the cases of Maina and Marry Mathews. He also relied on 1972 (I) LLJ Page 437 (SC)—The Jaipur Udyog Limited vs. The Cement Work Karamchari Sangh, Sahunagar. Wherein it was held that "So the Tribunal cannot widen the scope of beyond terms of the reference by entertaining by such individual application".

16. He also relied on F.J.R. Vol. XIX Page 497 (SC) In the case the clerical staff also included in the definition of 'workman' by the Tribunal. He also relied on 1963 (I) Page 684 (SC) in which it was held that the finding of the Industrial Tribunal that the misconduct alleged and proved against the concerned employee did not constitute misconduct within the standing orders of the concern was also correct.

17. The learned counsel further submits that in this particular case the facts are that the petitioner was the employee in question with reference to application from unmarried candidates want only

apply although married as unmarried candidates and in the enquiry which is conceded as valid, it is proved beyond reasonable doubt that she has already committed on the date of application and continued to be so till she was divorced although whether the said divorce was legally valid or not in question till 1991. It is not as if the misconduct as correct during the course of employment. In fact had it been mentioned that she was married she would not have been appointed at all in the said post. But for her furnishing such wrong information, she was selected and given appointment. If such persons are allowed to take shelter under Section 11-A then the very purpose of having certain conditions for service would become a mockery and it should not be permitted to take the plea that the punishment is excessive and disproportionate.

18. Therefore he submits that the reference may be ordered against the petitioner and she deserves no sympathy and also it is not deserving to have any indulgence of this Tribunal. So far the cases of Maina and Merry Mathews are concerned they are not the terms of reference and this Tribunal has not called upon to sit over the judgement as to what circumstances their services were terminated or they submitted resignation how they were given fresh appointments. Further it is argued across the bar in the case of Miss. Maina. She approached the Hon'ble High Court of Delhi where the caste certificate was upheld therefore she again was appointed and so far as Ms. Marry Mathews is concerned although she gave it as unmarried for the post of Airhostess she was dismissed and she was again reappointed passenger Felicitation Assistants for which there is no condition that she would be unmarried. For the above reason the petitioner is not entitled to any relief.

19. Admittedly, the petitioner has submitted an application Ex. M7, dated 5-4-1989 applying for the post of Air Hostess in Indian Airlines and for the eligibility to the post, one of the condition prescribed is that the applicant should be unmarried girl with other necessary qualifications. In the application submitted by her she declared as 'unmarried' and so also in the application for the appointment she signed a declaration on 23-5-89 declaring herself as single in the column mentioned in her marital status as 'single' (unmarried) and further in pursuance of the letter dated 17-12-1989 she filed another declaration on 5-1-1990 stating that 'am not married'. It is also an admitted fact that she submitted a reply dated 28-10-93 Ex. M11, to the show cause notice issued by the management about her marriage with Vijay Garden on 13-1-1987 in which she stated that she went through the marriage rituals and stayed with her husband for a week but her marriage was not consummated and then ultimately it was dissolved in the presence of caste elders on 2-12-1991. As to the above state of affairs when the petitioner faced with the domestic enquiry on 18-5-1993 she admitted to the extent that she was married in January, 1987 and while she was staying with her in-laws there was dowry harassment and so she left her in-laws house and went back to her parents house. In the said situation she regarded as 'single' and declared that she was 'unmarried woman' and thereafter in search of employment, she applied to the post of Air Hostess in the Indian Airlines.

20. In the light of above admissions, it is to be considered whether the information given by the petitioner about her marital status as 'unmarried' for securing job would amounts to misconduct or not attracting the clauses of standing order.

Clause 16.4 : Fraud and dishonesty in the contention with the business or property of the Corporation.

Clause 16.8 : Breach of any standing order or any law of Rules applicable to the establishment.

Clause 16.13 : Commission of any act subversive of discipline or of Good behaviour in the premises of the establishment.

Clause 16.28 : Giving false information at the time of employment.

21. No doubt the management has got approved the termination of service of the petitioner under Section 33(2)(b) of I.D. Act covered by Ex. M15. Still there is no bar for an aggrieved workman to raise a dispute and challenge the legality and propriety of her termination from service both under Section 10 and 11 'A' of Industrial Dispute Act.

22. In nutshell, the contentions raised by the petitioner are that : (1) the charge of misconduct in declaring her marital status does not amount to suppression of material with regard to qualification (2) That the misconduct should be specific to the charge with reference to the standing orders mentioned in the charge sheet (3) it is a clear case of discrimination because of the reason that two Air Hostesses by name Marry Mathews and Maina Nagar who were recruited as Air Hostess have also committed misconduct of violating the information at the time of securing employment who were re-appointed and continuing in their services. Therefore there cannot be two different yardsticks between one employee and another (4) that the punishment is not only in human but shockingly disproportionate to the so called misconduct.

23. The contentions 1 and 2 relates to the charge covered by clause 16.4, 16.8, 16.13 and 16.28 of Indian Airlines Standing orders which emphasize on the aspect of fraud, dishonesty in the affairs of the business, breach of standing orders or rules or law, an act of subversive of discipline by giving false information at the time of employment.

24. The crux of the charge is that the petitioner being a married woman gave false information about her marital status to obtain the appointment as Air hostess and thereby she committed fraud and dishonesty which amounts to misconduct. In view of the fact that she placed guilty of the charges the recourse was to impose punishment of removal from service and the question of imposing lesser punishment does not arise as the very nature of the job is that for the post of Air Hostess only unmarried girls are to be taken. It is necessary to go through the factual and legal aspects for appreciating the rival contentions of the parties. As per advertisement dt. 27-2-1989 published in Hindustan Times, applications were called for, for the post of the Airhostess for employment in Indian Airlines fixing certain conditions and qualifications from the eligible candidates for applying to the said post.

First amongst the conditions prescribed is that the applicant for the post of Air Hostess should be unmarried who is Indian Nationality under 25 years of age with a Degree qualification as on 1-2-1989. As the pre-requisite condition is that the applicant should be an unmarried girl, the question of selecting and giving appointment to a married woman does not arise. The selection of married workman is contra to the rules and regulations. The applicants who were selected on the basis of information furnished in the application are required to submit attestation forms, signing declaration about the information furnished therein. In the declaration itself it is cautioned that if any of the information furnished by the candidate is found to be false or given suppressing the factual aspects it would be disqualified and in such circumstances, whether or not the information given by the petitioner about her marital status as 'unmarried' as against true factum of her marriage by the date would amount to false information and suppression of truth and this aspect is to be considered in the light of the contentions and legal aspects raised by both sides.

25. It is undisputed fact that the employment is a contract of service which impose certain obligations and duties which are to be satisfied by the employee and breach of any conditions have its own consequences. Section 3 and Clause (1) of 17 of Indian Contract Act have defined as to suppression of information or concealment of material fact so also as to fraudulent misrepresentation while entering into contract. Under the statute improper concealment or suppression of material fact which the party concealed is legally bound to disclose and of which the authority has a legal right to insist should be informed is fraudulent which will invalidate the contract. Similarly fraud means and includes suggestion as to a fact of that which is not true by one who does not believe it to be true. It is therefore clear from the statute that any information given by a person which is not true is a false misrepresentation which is fraudulent. In the said circumstances the information given by the petitioner mentioning qualification as 'unmarried' suppressing her marriage with Vijay Godum amounts to 'suprio falsio and suppressio veri'. Therefore under no stretch of any Interpretation it can be said that the petitioner unintentionally had given the said information mentioning her marital status as unmarried on the premise that her marriage was dissolved.

26. The decision scooter India Limited Vs. Labour Court 1989 (U) LLJ page 71(SC) cited above in support of the contention that the misconduct must be specific to the charge laid as per the Standing Orders is not applicable to the facts of the case. The standing orders 16.4, 16.8 and 16.28 have expressly and impliedly relates to misconduct where false information fraud and dishonesty was played in connection with the business.

27. The second Judgement of Indian Farmers Fertilizers Corporation Limited Vs. P.O. Labour Court-1999(T) LLJ Page 1040 (SC) is also not applicable to the facts of this case. In that case the controversy was whether the employee is attracted with the definition of workman U/Sec. 2(S) or not.

28. The third decision of Bombay Labour Union as International Franchises Private Ltd., 1966(1)LLJ Page 417(SC) in which the dispute was with regard

to service conditions that unmarried woman-employees of National Franchises have to resign after they got married. After considering the legality and propriety of the condition therein, their lordship held that the absolute freedom of the employer to impose any conditions of employment is always open to industrial adjudication to consider the conditions employment of Labour and to vary them if it is found necessary, unless the employer can justify an extraordinary condition like the one before the court by reason which carry conviction. Their lordships after considering 'pros' and 'cons' of the case have considered the fact that the nature of work to be carried in the Department of Pharmaceuticals is not arduous except the fact that it has to be done in a team in the presence of the workman and that if a married workman is employed there is a possibility of frequent absenteeism for the work and availment of leaves frequently. The facts in that case are quite different from the facts in this case for the reason that the nature of work to be performed as a Air Hostess is quite different from the work in any factory or establishment which is at the ground level. As an Air Hostess the employee has to first of all undergo physical training so as to withstand stress and strain for discharging flight service and also that she had to attend to the passenger service in day to day work while the Aircraft in motion. There is a considerable force in the arguments advanced by the respondent's counsel that if a married woman is employed as Air Hostess there is lot of risk to her and by the biological phenomena when she get pregnancy there will be serious repercussions, so keeping in view of all these factors only unmarried girls are initially appointed to carry on the business in day to day service in the Air Craft. Such a restriction or condition in service under no stretch of any imagination can be said to be arbitrary or discriminatory on the ground of sex while taking males as flight persons in Air Craft even though they are married.

29. The fourth decision referred to by the petitioners' counsel in Miss C. B. Muthama Vs. Union of India AIR 1979 SC 1868 in which a female employee in government services has questioned the Rule of Indian Foreign Service (conduct and discipline) Rules, 1961 where in the condition is that a workman candidate shall obtain permission for marriage. She is also not entitled to join foreign service, unless gives an undertaking to resign if she were to get married. While dealing with the case their lordships have observed that they did not mean to universalise or dogmatise that men and women are equal in all occupations and all situations and do not exclude the need to pragmatise where the requirements of particular employment, the sensitivities of sex on the peculiarities of social sectors or the handicaps of either sex may compel selectivity. But save where the differentiation is demonstrable, the rule of equality must govern. Article 15 itself has given protection to women that there cannot be discrimination in the appointments on the ground of sex but in the present case there is no discrimination on the ground of sex. So the facts in the case are not at all applicable. The post of Air Hostess is itself intended for unmarried girls and the only condition of restriction imposed is that unmarried girls only are eligible for appointment. The reasons are obvious

as discussed above. Even otherwise in that decision the Government has repealed Rule 8 of Foreign Service (conduct and discipline) Rules as the said rule is violative of Article 15. The bone of contention that a discrimination is shown between men and women in the appointment and that a married male person has no restriction of marital status whereas the woman is having restriction which is a discrimination. The present dispute is referred is to decide whether there is a justification for the management to terminate the services of the petitioner on the ground of misconduct, but the issue is not on the point of sex discrimination. So this Tribunal cannot go beyond the issue involved and widen the inquiry.

30. The petitioner has also placed reliance upon a decision rendered by the Hon'ble Supreme Court in the case of Regional Manager Bank of Baroda Vs. P.O. Ventral Government Industrial Tribunal reported in 1999 (1) Supreme Court 265, in which an employee applied for service on 20-5-1977 and gave a reply in negative to query at column No. 27 "whether he was convicted by any court"—though by the date of his application he was convicted for the offence U/Sec 307 of I.P.C. on 30-3-79. Thus he suppressed the facts and he gave a false reply that he was never convicted at any time. Where the information was found to be false, the management after serving show cause notice terminated the services and on that the aggrieved workman raised an Industrial Dispute. The Labour Court has ordered for reinstatement without backwages, which was confirmed by the Hon'ble High Court and on that the management approached the Apex Court questioning the reinstatement of the employee pointing out that the suppression of information amounts to misconduct and while deciding the case their Lordships have found that prosecution was not for an offence involving cheating or misappropriation of the business transaction of the bank. It is observed that the employee was prosecuted under Section 307 of I.P.C. and it did not remain so pernicious a misconduct on his part as to visit him with grave punishment of termination from service on these peculiar facts of the case and more so the conviction of 3 years rendered by the Sessions Court was set aside by the High Court. The decision has not laid down by any rule that suppression of information does not amount to false statement. Having regard to the facts and circumstances of the case therein it was held that the such act of omission cannot be treated as grave misconduct for imposing extreme punishment of termination.

31. The third point according to the petitioner's counsel, the management has showed discrimination against the petitioner in imposing extreme punishment by terminating her services as against the punishment imposed on other two co-Air Hostesses namely Marry Mathews and Maina Nagar against whom an enquiry was held after issuing charge sheet for giving false information of marital status of Mrs. Marry Mathews and Maina Nagar in submitting a false caste certificate by her. In this connection Exs. C1 and C2 records were called for to go through the misconduct committed by these two employees who were reinstated into service by appointing Marry Mathews as Passenger Felicitation and other Maina Nagar as girl Hostess in the same post.

32. It is true that an enquiry was held against Marry Mathews and she was removed from service. Subsequently she made a representation to the Management on 13-2-1978 explaining how her marital life became a nightmare within one month leading to separation and obtaining her divorce in April, 1977 considering the grievance of Marry Mathews, the management gave her appointment as Passenger Felicitation on starting basic pay Rs. 600 per month which cannot be a ground to say that there is a discrimination. The management has its discretion more so in giving alternative appointment instead of Air Hostess. Similarly in the case of Maina Nagar on termination of said employee on the ground of false caste certificate, she has challenged in the Hon'ble High Court and since she succeeded the management had no other option except to appoint her as Air Hostess. Absolutely there is no discrimination as pointed out against the management. Even otherwise this reference is not for adjudication of the matter on the point whether there is any discrimination in imposing the punishment between the petitioner and other two employees namely Marry Mathews and Maina Nagar. So the contention raised does not hold any water. Lastly it is argued that the punishment of termination from service is extreme and shocking and on that contention, it is prayed to invoke Section 11-A of I.D. Act for imposing lesser punishment than the removal from service.

33. In reply to the above said contention it is argued that the question of applying Section 11-A in this case does not arise, when the petitioner as a married woman is not at all entitled for appointment and therefore the question of imposing lesser punishment for the misconduct does not arise.

34. As contended by the learned counsel for the respondent, the question of substituting the punishment of discharge or dismissal with lesser punishment is not at all applicable. The management has proved that the petitioner obtained the selection, though she is not eligible for appointment as an Air Hostess and that a married woman is not eligible for the post as per rules. So the factors of quantum of punishment invoking Section 11-A does not arise more so showing sympathy or pity in this case, so the punishment cannot be reduced by means of Section 11-A of the Industrial Dispute Act, more particularly where the rules of appointment itself has fixed certain parameters for the appointment of Air Hostess. Those Rules will be come mockery and the person who ever commits breach would come forward with a plea to exercise discretion and sympathy imposing lesser punishment instead of termination of service. There is no possibility of converting the order of termination and such a conversion is not possible in the present facts of this case. If at all the management intends to show sympathy and exercise discretion as it was shown to Ms. Marry Mathews and Maina Nagar it may do so to provide alternative employment.

If so advised, the petitioner may approach for such benefit.

35. The learned counsel for the respondent has contended that the management has obtained approval under Section 33(2) (b) of the I.D. Act against the said order, and that the petitioner had approached the Hon'ble Supreme Court and thereafter she had withdrawn the case without leave of the court. So the petitioner cannot raise this dispute once again has no force at all. The statute has provided the remedy to an aggrieved to raise the dispute under the provisions of I.D. Act, 1947. The objection of the respondent is negated on this point. The various decisions cited by the respondent in support of the contentions are relevant on the various points in controversy but once again the principles need not be reiterated in the discussion.

36. In the result, an award is passed confirming the impugned order of termination imposed by the respondent as a measure of punishment for the misconduct that was proved against her by establishment in a domestic enquiry. In the circumstances each party shall bear its own costs.

Dictated to the Steno-typist transcribed by him corrected by me and given under my hand and the seal of this Court on this the 27th day of October, 2000.

SYED ABDULLAH, Industrial Tribunal-I

Appendix of Evidence :

No oral evidence is adduced by either side.

Documents marked for the Respondent :

NIL

Documents marked for the Respondent :

Ex. M1 Charge sheet dt. 7-1-1993.

Ex. M2 Letter dt. 2-3-93 issued to petitioner about appointment of Mr. V. Bhandari as Enquiry Officer.

Ex. M3 Letter dt. 4-2-93 to the petitioner about the Fixation of date of enquiry as 16-2-93.

Ex. M4 Letter dt. 8-4-93 about date of enquiry as 14-4-93.

Ex. M5 Letter dt. 19-4-93 about fixing the enquiry as 28-4-93.

Ex. M6 Letter dt. 7-5-93 fixing the enquiry for 18-5-93.

Ex. M7 Proceedings of the enquiry held on 18-5-93 including the appointment order and attestation forms and declaration submitted by the petitioner.

Ex. M8 Final submission dt. 31-5-93 submitted by the petitioner.

Ex. M9 Enquiry report dt. 4-6-93 submitted by Enquiry Officer

Ex. M10 Show cause notice dt. 15-10-93 issued to petitioner.

Ex. M11 Reply dt. 28-10-93 submitted by petitioner to show cause notice.

Ex. M12 Letter dt. 11-5-94 to the petitioner imposing the punishment of removal from service.

Ex. M13 Acknowledgement of the petitioner dt. 13-5-94 of Ex. M12.

Ex. M14 Approval application dt. 11-5-94 made before the National Industrial Tribunal by the Indian Airlines.

Ex. M15 Order dt. 8-8-97 of National Industrial Tribunal.

Documents marked by the Court :

Ex. C1 File relating to Mary Mathews (containing 16 pages)

Ex. C2 File relating to Maina Nagar (containing 19 pages)

नई दिल्ली, 6 दिसम्बर, 2000

का.आ. 2807.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (बी आई) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ.1209 दिनांक 22-5-2000 द्वारा भारतीय खाद्य निगम को उक्त अधिनियम के प्रयोजनों के लिए 7 जून, 2000 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (बी आई) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 7 दिसम्बर, 2000 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है

[फा. सं. एस. 11017/5/91-आई.आर. (पी. एल.)]

एच. सी. गुप्ता, अवसर सचिव

New Delhi, the 6th December, 2000

S.O. 2807.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared

by the Notification of the Govt. of India in the Ministry of Labour S.O. No. 1209, dated the 22th May, 2000 services in the Food Corporation of India to be a public utility service for the purpose of the said Act, for a period of six months from the 7th June, 2000.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 7th December, 2000.

[No. S-11017/5/91-IR(PL)]
H. C. GUPTA, Under Secy.

नई दिल्ली, 8 दिसम्बर, 2000

का.आ. 2808.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि भारत प्रतिभूति मुद्रणालय नासिक रोड को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 12 के अन्तर्गत निदिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस. 11017/18/97-आई. आर. (पी.एल.)]
एच. सी. गुप्ता, अवर सचिव

New Delhi, the 8th December, 2000

S.O. 2808.—Whereas the Central Government is satisfied that the public interest requires that the India Security Press, Nasik Road which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/18/97-IR(PL)]
H. C. GUPTA, Under Secy.

नई दिल्ली, 12 दिसम्बर, 2000

का.आ. 2809.—केन्द्रीय सरकार संतुष्ट हो जाने पर लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (बी आई) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 1479 दिनांक 19-6-2000 द्वारा भारत सरकार टकसाल, मुम्बई को उक्त अधिनियम के प्रयोजनों के लिए 19 जून 2000 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है,

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (बी आई) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 19 दिसम्बर, 2000 से छह मास की कालावधि के लिए उपयोगी सेवा घोषित करती है।

[फा. सं. एस. 11017/14/97-आई. आर. (पी.एल.)]
एच.सी. गुप्ता, अवर सचिव

New Delhi, the 12th December, 2000

S.O. 2809.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 1479 dated the 19th June, 2000 the services in India Government Mint., Mumbai to be a public utility service for the purpose of the said Act, for a period of six months from the 19th June, 2000.

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of the months from 19th December, 2000.

[No. S-11017/14/97-IR(PL)]
H. C. GUPTA, Under Secy.

नई दिल्ली, 7 दिसम्बर, 2000

का. आ. 2810.—जबकि मैसर्स विदेश संचार निगम लिमिटेड [इसके पश्चात् उक्त स्थापना के रूप में संदर्भित] ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के अन्तर्गत बनाई गई कर्मचारी भविष्य निधि योजना के पैरा 27-क के तहत छूट प्राप्त करने के लिए आवेदन किया है।

और जबकि केन्द्र सरकार की राय में उक्त स्थापना के कर्मचारियों के लिए तैयार किए गए भविष्य निधि नियमों में अंशदान की दर उक्त अधिनियम की धारा 6 में उल्लिखित कर्मचारी अंशदान की दर से कम नहीं है तथा इसके कर्मचारियों को मिलने वाले भविष्य निधि लाभ उक्त अधिनियम तथा कर्मचारी भविष्य निधि स्कीम, 1952 (इसके आगे जहां भी स्कीम शब्द का प्रयोग किया गया है उससे अभिप्राय उक्त स्कीम से है) में उल्लिखित लाभों से किसी प्रकार से कम नहीं है जो इस वर्ग की स्थापनाओं में कार्यरत कर्मचारियों को उपलब्ध है।

अतः, अब उक्त योजना के पैरा 27-क के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और संलग्न अनुसूची में वर्णित शर्तों के अधीन केन्द्रीय सरकार इसके द्वारा उक्त स्थापना में नियमित कर्मचारियों की श्रेणी के रूप से उक्त स्कीम के सभी उपबन्धों के लागू होते से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापना से संबंधित नियोक्ता केन्द्र सरकार के द्वारा समय-समय पर दिए गए निर्देश के अनुसार उक्त अधिनियम में कर्मचारी भविष्य निधि योजना 1952 के पैरा 27-क के अधीन ऐसे निरीक्षण के लिए सुविधाएं प्रदान करेगा और ऐसे निरीक्षण प्रभार की अदायगी प्रत्येक माह की समाप्ति के 15 दिन के अन्दर करेगा।

2. गैर छूट प्राप्त स्थापनाओं के संबंध में उक्त अधिनियम और उनके अधीन सृजित उक्त स्कीम के अन्तर्गत देय अंशदान की दर से स्थापना के भविष्य निधि नियमों के अन्तर्गत देय अंशदान की दर किसी समय भी कम न होगी।

3. पेंशनियों के मामले में छूट प्राप्त स्थापना की स्कीम कर्मचारी भविष्य निधि स्कीम, 1952 से कम हितकर नहीं होगी।

4. उक्त स्कीम में कोई भी संशोधन जो स्थापना के वर्तमान नियमों से कर्मचारियों के लिए अधिक लाभकारी है उन पर अपने आप लागू किया जाएगा। उक्त स्थापना के भविष्य निधि नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त की पूर्व अनुमति के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अनुमति देने से पूर्व, कर्मचारियों को अपने विचार प्रस्तुत करने का उचित अवसर देगा।

5. यदि स्थापना को छूट न दी जाती तो वे सभी कर्मचारी [जिसे उक्त अधिनियम की धारा 2 (ब) में निश्चित किया गया है] जो सदस्य बनने के पात्र होते, सदस्य बनाए जाएंगे।

6. जहां एक कर्मचारी जो कर्मचारी भविष्य निधि (कानूनी) या किसी अन्य छूट प्राप्त स्थापना की भविष्य निधि का पहले से सदस्य है, को अपनी स्थापना में काम पर लगाया जाता है तो नियोक्ता उसे निधि को तुरन्त सदस्य बनाएगा और ऐसे कर्मचारी के पिछले नियोक्ता के पास भविष्य निधि लेखों में संचयों को अंतरित कराने और उसके लेखों में जमा कराने की व्यवस्था करेगा।

7. केन्द्रीय भविष्य निधि आयुक्त के द्वारा अथवा केन्द्रीय सरकार के द्वारा जैसा भी मामला हो, समय-समय पर दिए गए निर्देशों के अनुसार निधि के प्रबन्ध के लिए नियोक्ता न्यासी बोर्ड की स्थापना करेगा।

8. भविष्य निधि, न्यासी बोर्ड में त्रिहित होगी जो अन्य बातों के साथ-साथ भविष्य निधि में आय के और भविष्य निधि से अदायगियों के उचित लेखों और उनकी अभिरक्षा में बकाया के लिए कर्मचारी भविष्य निधि संगठन के प्रति उत्तरदायी होगा।

9. न्यासी बोर्ड कम से कम 3 माह में एक बार बैठक करेगा और केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त या उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए गए मार्ग निर्देशों के अनुसार कार्य करेगा।

10. न्यासी बोर्ड द्वारा रखे गए भविष्य निधि ऐसे अर्हता प्राप्त निष्पक्ष चार्टर्ड अकाउन्टेन्ट द्वारा वार्षिक लेखा परीक्षा के अधीन होंगे। जहां आवश्यक समझा जाये केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य अर्हता प्राप्त लेखा परीक्षक द्वारा लेखों की पुनः लेखा परीक्षा कराने का अधिकार होगा और इस पर हुआ व्यय नियोक्ता द्वारा वहन किया जाएगा।

11. प्रत्येक वर्ष, स्थापना के लेखा परीक्षित तुलन-पत्र के साथ लेखा परीक्षित वार्षिक भविष्य निधि लेखों की एक प्रति वित्तीय वर्ष की समाप्ति के छः माह के अन्दर क्षेत्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी। इस प्रयोजन के लिए भविष्य निधि का वित्तीय वर्ष पहली अप्रैल से 31 मार्च तक होगा।

12. नियोक्ता प्रतिमाह भविष्य निधि में उसके द्वारा अंशदान और कर्मचारियों के अंशदानों की आगामी माह की 15 तारीख तक न्यासी बोर्ड की अंतरित कर देगा। अंशदानों की विलम्बन से अदायगी करने के लिए समान परिस्थितियों में नियोक्ता नुकसानी देने का उसी प्रकार उत्तरदायी होगा जिस प्रकार एक न-एक छूट प्राप्त स्थापना उत्तरदायी होती है।

13. न्यासी बोर्ड सरकार द्वारा समय-समय पर दिए गए निदेशों के अनुसार निधि में जमा राशियों का निवेश करेगा। प्रतिभूतियां न्यासी बोर्ड के नाम पर प्राप्त की जायेगी और भारतीय रिजर्व बैंक के जमा नियन्त्रण में अनुसूचित बैंक की अभिरक्षा में रखी जायेगी।

14. सरकार के निदेशों के अनुसार निवेशन करने पर न्यासी बोर्ड अलग-अलग रूप से और एक साथ केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधियों द्वारा लगाए गए अधिभार के लिए उत्तरदारी होंगे।

15. न्यासी बोर्ड एक वस्तु-व्यापार रजिस्टर तैयार करेगा और व्याज की समय पर वसूली सुनिश्चित करेगा।

16. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किये गये, निकाले गये अंशदान और व्याज के संबंध में विस्तृत लेखे रखेगा।

17. वित्तीय/लेखा वर्ग की समाप्ति के छः माह के अन्दर बोर्ड प्रत्येक कर्मचारी की वार्षिक विवरण जारी करेगा।

18. बोर्ड प्रत्येक कर्मचारी की वार्षिक लेखा विवरण के स्थान पर पास-बुक जारी कर सकता है। ये पास-बुक कर्मचारियों की अभिरक्षा में रहेंगी और कर्मचारियों के द्वारा प्रस्तुत करने पर बोर्ड के द्वारा इन्हें अद्यतन किया जायेगा।

19. लेखा वर्ष के पहले दिन आदि शेष पर प्रत्येक कर्मचारी के लेखे में व्याज उस दर से जमा किया जाएगा जिसका न्यासी बोर्ड निर्णय करें परन्तु यह उक्त स्कीम पैरा 60 के अन्तर्गत केन्द्रीय सरकार द्वारा घोषित दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड केन्द्रीय सरकार द्वारा घोषित व्याज की दर, इस कारण से कि निवेश पर आय कम है या किसी अन्य कारण से बढ़ा करने में असमर्थ है तो इस कमी को नियोक्ता पूरा करेगा।

21. नियोक्ता भविष्य निधि की चोरी के कारण, लूट-खसोट, ध्यानत, गबन अथवा किसी अन्य कारण से हुई हानि को भी पूरा करेगा।

22. नियोक्ता और न्यासी बोर्ड, क्षत्तीय भविष्य निधि आयुक्त को ऐसी विवरणियां प्रस्तुत करेंगे जो समय-समय पर केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त निर्धारित करें।

23. उक्त स्कीम के पैरा 69 पर किसी कर्मचारी को निधि के सदस्य न रहने पर यदि स्थापना के भविष्य निधि नियमों में नियोक्तार्थों के अंशदानों को जन्त करने की व्यवस्था है तो न्यासी बोर्ड इस प्रकार जन्त की गई राशियों को अलग से लेखा तैयार करेगा और ऐसे प्रयोजनों के लिए उपयोग करेगा जो केन्द्रीय भविष्य आयुक्त की पूर्व अनुमति से सुनिश्चित किया गया हो।

24. स्थापना के भविष्य निधि नियमों में निश्चित किसी बात के होते हुए भी यदि किसी व्यक्ति के सेवा निवृत्ति होने के फलस्वरूप या किसी अन्य प्रतिष्ठान में नौकरी करने पर निधि की सदस्यता समाप्त हो जाती है या पता लगता है कि प्रतिष्ठान में भविष्य निधि नियमों के अन्तर्गत अंशदान की दर समय-हरण की दर आदि सांविधिक योजना के अन्तर्गत दी गई दरों की तुलना में कम अनुकूल है तो अन्तर का वहन नियोक्ता द्वारा किया जाएगा।

25. नियोक्ता, भविष्य निधि के प्रशासन से संबंधित सभी खर्च जिसमें लेखों के रखरखाव, रिटर्न प्रस्तुत किये जाने, राशियों का अन्तरण-शामिल हैं, वहन करेगा।

26. नियोक्ता समुचित प्राधिकारी द्वारा अनुमोदित निधि के नियमों की एक प्रति तथा जब भी कोई संशोधन होता है, उसकी मुख्य बातों को कर्मचारियों के बहुमत की भाषा में अनुवाद करके स्थापना के बोर्ड पर लगाएगा।

27. "समुचित सरकार" स्थापना की चालू छूट को जारी रखने के लिए और शर्तें लगा सकती हैं।

28. यदि उक्त अधिनियम के अन्तर्गत भविष्य निधि अंशदान की दर बढ़ायी जाती है, तो कर्मचारी भविष्य निधि अंशदान की दर उचित रूप में बढ़ाएगा, ताकि उक्त अधिनियम के अन्तर्गत दिए जाने वाले लाभों से स्थापना की स्कीम के अन्तर्गत दिए जाने वाले भविष्य निधि के लाभों से किसी भी प्रकार से कम न हों।

29. उक्त शर्तों में से किसी एक के उलंघन पर छूट रद्द की जा सकती है।

[फा.सं.एस. 35015/2/2000-एस.एस.-II]

जय प्रकाश शुक्ल, उप सचिव

New Delhi, the 7th December, 2000

S.O. 2810.—Whereas Messrs Videsh Sanchar Nigam Limited (hereinafter referred to as the said establishment) has applied for exemption under Para 27-A of the Employees' Provident Funds scheme 1952 framed under the Employees Provident Funds & Miscellaneous Provisions Act, 1952, (19 of 1952) (hereinafter referred to as the said Act).

And whereas in the opinion of the Central Government the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of similar character;

Now, therefore, in exercise of the powers conferred by Paragraph 27-A of the said scheme and subject to the conditions specified in the schedule annexed hereto the Central Government hereby exempts the regular employees of the said establishment from the operation of all the provisions for the said scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under para 27-A of the E.P.F. Scheme, 1952 of the said Act within 15 days from the close of every month.

2. The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishment and the said Scheme framed thereunder.

3. In the matter of advances, the scheme of the exempted establishments shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

4. Any amendment to the said scheme which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the Provident Fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their points of view.

5. All employees as defined in section 2(f) of the said Act who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a provident fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees Provident Fund Organisation inter alia for proper accounts of the receipts into and payments from the Provident Fund and the balances in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or any officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit

by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts reaudited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For the purpose the financial year of the provident fund shall be from the 1st of April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an un-exempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a scheduled Bank under the Credit Control of the Reserve Bank of India.

14. Failure to make investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a script-wise register and ensure timely realisation of interest.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of accounts to every employee within six months of the close of financial/accounting year.

18. The Board may instead of the annual statement of accounts, issue pass books to every employee. These pass books shall remain in the custody of the employees and will be brought upto date by the Board on representation by the employees.

19. The accounts of each employee shall be credited with interest calculated on the monthly running balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on Investment is less or for any other reason then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss, that may be caused to the Provident Fund due to theft, burglary, defalcation, mis-appropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employees' contributions in cases where an employee ceases to be a member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the Provident Fund Rules of the establishment, if on the cessation of any Individual from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the rate of contribution rate of forfeiture etc., under the P.F. Rules of the establishment are less favourable as compared to these under the statutory Scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority as and when amended thereto alongwith translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for continued exemption of the establishment.

28. The employer shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution is enhanced under the said Act so that the benefits under the provident fund scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[F. No. 35015/2/2000-SII]

J. P. SHUKLA, Dy. Secy.

नई दिल्ली, 12 दिसम्बर, 2000

का.आ. 2811.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जनवरी, 2001 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 अध्याय-5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“श्रीकाकुलम जिले के राजम मण्डम के अन्तर्गत आने वाले राजस्व ग्राम-राजम, कोत्तवलसा, पेनुबका, वी.आर. अग्राहारम, गोपालपुरम अन्तकापल्ली, मुगिलवलसा और राजय्यापेटा।”

[संख्या: 38013/53/2000-एस.एस.-I]

जे. पी. शुकला, उप सचिव

New Delhi, the 12th December, 2000

S.O. 2811.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2001 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh, namely :—

“The areas falling within the limits of revenue villages of Rajam, Kothavalasa, Penubaka, V. R. Agraharam, Gopalapuram, Anthakapalli, Mugilivalasa and Rajayyapeta in Rajam Mandal of Srikakulam District.”

[No. S-38013/53/2000-SS.I]

J. P. SHUKLA, Dy. Secy.